

## Chapter 35.1

### ZONING ORDINANCE

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### ARTICLE I. PURPOSE

#### **Sec. 35.1-1. Legislative authority.**

This ordinance establishes comprehensive zoning regulations for the City of Lynchburg, Commonwealth of Virginia, and provides for the administration, enforcement and amendment thereof, in accordance with the provisions of Chapter 11, Code of Virginia (1950), as amended. (Ord. No. O-78-352, 12-12-78)

#### **Sec. 35.1-2. Legislative intent.**

(a) It is the intention of the city to guide its future growth and development in accordance with a comprehensive plan of land use and population density that represents the most beneficial and convenient relationships among the residential, non-residential and public areas within the city.

(b) To provide adequate light, air and privacy; to preserve and protect lives and property from fire, floods and other dangers; and to prevent overcrowding of the land and undue congestion of population.

(c) To protect the character and the social and economic stability of all parts of the city; to encourage the orderly and beneficial development of all parts of the city; and to protect and conserve the value of land and buildings appropriate to the various districts established by this comprehensive zoning ordinance.

(d) To bring about the gradual conformity with the current Comprehensive Plan of Lynchburg of the uses of land and buildings throughout the city through the comprehensive zoning ordinance set forth herein, and to minimize conflicts among the uses of land and buildings.

(e) To promote the most beneficial relationship between the uses of land and buildings, and the street system which serves these uses, having particular regard to the potential amount and intensity of such land and building uses in relationship to the traffic capacity of the street system, so as to avoid congestion in the streets, and to promote safe and convenient vehicular and pedestrian traffic movements appropriate to the various uses of land and buildings throughout the city.

(f) To provide a guide for public action in the orderly and efficient provision of public facilities and services, and for private enterprise in building development, investment and other economic activity relating to uses of land and buildings throughout the city.

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**Charter reference**—Planning authority, § 38(33).

**Cross references**—Building, Ch. 11; building setback lines, § 11-41; erosion and sedimentation control, Ch. 16; fences and walls, Ch. 17; housing, Ch. 22; parks and public places, Ch. 28; planning, Ch. 30; subdivisions, App. B.

**State law reference**—Zoning, Code of Virginia, § 15.1-486 et seq.

(g) Interpretation, purpose or conflict—In their interpretation and application, the provisions of this ordinance shall be held to the minimum requirements adopted for the promotion of health, safety, morals or the general welfare of the community. (Ord. No. O-78-352, 12-12-78)

**Sec. 35.1-3. Severability clause.**

Should any section, subsection, sentence, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the ordinance in its entirety or of any part thereof other than that so declared to be invalid.

**ARTICLE II. OFFICIAL ZONING MAP,  
CLASSIFICATION, DISTRICTS AND BOUNDARIES**

**Sec. 35.1-4. Official zoning map.**

The City of Lynchburg is hereby divided into zones, or districts, as provided herein and as shown on the "Official Zoning Map of Lynchburg, Virginia," which, together with all explanatory matter thereon, is hereby declared to be a part of this ordinance, bearing the effective date of this ordinance and any map amendment thereto, and certified by the City Clerk of Council. The official zoning map shall be kept by the clerk of council in such place as he may deem suitable. A duplicate of the official zoning map shall be kept and maintained in current form in the office of the division of planning.

**Sec. 35.1-5. Classification of districts.**

For the purpose of this ordinance the City of Lynchburg is hereby divided into twenty four (24) classes of districts as follows:

District	Section
1. "R-C" conservation district,	35.1-28
2. "R-1" low density single-family residential district,	35.1-29
3. "R-2" low-medium density single-family residential district,	35.1-30
4. "R-3" medium density two-family residential district,	35.1-31
5. "R-4" medium-high density multi-family residential district,	35.1-32
6. "R-5" high density multi-family residential district,	35.1-33
7. "B-1" limited business district,	35.1-34
8. "B-2" local neighborhood business district,	35.1-35
9. "B-3" community business district,	35.1-36
10. "B-4" central business district,	35.1-37
11. "B-5" general business district,	35.1-38
12. "B-6" riverfront business district	35.1-38.1
13. "I-1" restricted industrial district,	35.1-39
14. "I-2" light industrial district,	35.1-40
15. "I-3" heavy industrial district,	35.1-41
16. "PUD" planned unit development district,	35.1-42.1/42.8
17. "CCD" cluster commercial development district.	35.1-43
18. "C" conditional zone or zone approval	35.1-43.1
19. "CC" commercial corridor overlay district	35.1-43.2
20. "SC" scenic corridor overlay district	35.1-43.3
21. "AS" airport safety overlay district	35.1-43.4
22. "HD" historic district,	35.1-44.1

23. "FW" floodway district, "FF" floodway fringe district, and AFP approximated flood plain district 35.1-45
24. "TND" traditional neighborhood development 35.1-43.5/43.13
- (Ord. No. O-94-067, 4-12-94; Ord. No. O-94-312, 11-13-94; Ord. No. O-98-013, 2/10/98)

**Sec. 35.1-6. Boundaries of districts; zoning map; determination of questions as to boundaries.**

The boundaries of each of the districts provided for by Section 35-1 are hereby established as shown on the map entitled "Official Zoning Map of Lynchburg, Virginia," certified by the clerk of council, dated



December 12, 1978, which said map is hereby declared to be a part of this ordinance. The said maps and all notations, references and designations shown thereon shall be as much a part of this ordinance as if the same were fully described herein. Where uncertainty exists as to the location of any boundaries shown on the official zoning map, the following rules shall apply:

(a) District boundaries are intended to follow streets, rights-of-way, watercourses or lot lines, or be parallel or perpendicular thereto, unless such district boundary lines are fixed by dimensions as shown on the zoning map.

(b) Where district boundaries are indicated as following approximately streets, rights-of-way or watercourses, the center line thereof shall be construed to be such boundaries, except for flood hazard districts, the boundaries of which shall be determined by water surface profiles.

(c) Where district boundaries are indicated as following approximately lot lines, such lot lines shall be construed to be such boundaries.

(d) If, after application of the rules contained in this ordinance, the district classification of any land is in question, it shall be deemed to be in the most restrictive of adjoining districts.

(e). Whenever any street, alley or other public way is vacated by official action as provided by law, the zoning districts adjoining the sides of such public way shall be automatically extended, depending on the side or sides to which such lands revert, to include the right-of-way of the public way thus vacated, which shall thenceforth be subject to all the regulations of the extended district or districts. (Ord. No. O-78-352, 12-12-78)

**Sec. 35.1-7. Lots in two (2) or more districts.**

Where a lot in one (1) ownership of record is divided by one (1) or more district boundary line, each of said divisions of the lot shall be subject to the regulations of the district in which it is located. Where such a division exists, the regulations of the more restrictive district may extend no less than fifty (50) feet into the less restrictive portion. (Ord. No. O-78-352, 12-12-78)

**Sec. 35.1-8. Replacement and revision of official zoning map.**

If the official zoning map herein adopted becomes damaged, destroyed, lost or difficult to interpret by reason of the nature or number of changes and additions, the council may by ordinance adopt a new official zoning map which shall supersede the official zoning map herein adopted. Such new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. In the event of loss, damage or destruction of the original zoning map, such new map shall place each piece of property in the same district as on the original, as nearly as can be determined from available evidence. (Ord. No. O-78-352, 12-12-78)

**Sec. 35.1-9. Unauthorized changes in zoning map prohibited.**

No changes of any nature shall be made in the official zoning map or any matter shown thereon except in conformity with the procedures and requirements of this ordinance. It shall be unlawful for any person to make any unauthorized change in the official zoning map. Any person violating this section shall be punished as provided in Section 35.1-20. (Ord. No. O-78-352, 12-12-78)

**Sec. 35.1-10. Territory annexed or not specifically included within a district.**

In every case where a territory has not been specifically included within a district, or where a territory becomes a part of an incorporated area of the City of Lynchburg by annexation or otherwise, such territory shall automatically be classified as an R-1, low density residential district, until otherwise classified by an amendment as provided herein. The city council shall, as soon as practical after annexation, undertake to

establish appropriate zoning of the said territory in accordance with the provisions of this ordinance. (Ord. No. O-78-352, 12-12-78)

### ARTICLE III. DEFINITIONS

#### **Sec. 35.1- 11. Repealed. (Ord. No. O- 90- 047, 2- 13- 90)**

**Editor's note:**—Sec. 35.1-11, pertaining to definitions, derived from Ord. No. O-78-352, adopted 12-12-78, was repealed by Ord. No. O-90-047, adopted 2-13-90. Ord. No. O-90-047 enacted similar provisions designated herein as Secs. 35.1-11.1 thru 35.1-11.13.

#### **Sec. 35.1- 11.1 Definitions.**

(a) Terms that are not specifically defined in this section or elsewhere in the zoning ordinance will have the meaning as defined in Webster's Third New International Dictionary of the English Language Unabridged, Phillip Babcock Grove, Ph. D., Editor in Chief, G & C Merriam Company, Springfield, Mass. 1966.

(b) Terms not herein defined shall be construed as defined in the Uniform Statewide Building Code, as adopted by the City of Lynchburg.

(c) The following rules of construction apply to the text of the zoning ordinance:

- (1) The particular shall control the general.
- (2) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (3) Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates otherwise.
- (4) A "building" or "structure" includes any part thereof.
- (5) The word "person" includes an individual, corporation, a partnership, an incorporated association or any other similar entity.
- (6) Unless the context clearly indicates otherwise, where a regulation involves two (2) or more items, conditions, provisions or events connected by conjunctions, such conjunctions shall be interpreted as follows:
  - a. "And" indicates that all the connected words or phrases shall apply.
  - b. "Or" indicates that the connected words or phrases may apply singly or in any combination.
  - c. "Either...or" indicates that the connected words or phrases shall apply singly but not in combination.
- (7) The words "includes" or "including" shall not limit a term to the specified examples but are intended to extend its meaning to all other instances or circumstances of like, kind or character.
- (8) The word "state" means the Commonwealth of Virginia, and the word "city" means the City of Lynchburg, Virginia. (Ord. No. O-90-047, 2-13-90)

#### **Sec. 35.1- 11.2. Terms beginning with "A".**

Terms used in the zoning ordinance, when defined in this section, shall have the following meaning:

- (a) Accessory use or accessory:
  - (1) A use conducted on the same zoning lot as the principal use to which it is related (whether located within the same or an accessory building or other structure, or on an accessory use of land), except that, where specifically provided in the applicable regulations, accessory off-street parking or loading need not be located on the same zoning lot.
  - (2) A use which is clearly incidental to, and customarily found in connection with, such principal use.

(3) A use subordinate in area, floor area, intensity, extent and purpose to the principal use.

(4) A use either in the same ownership as such principal use, or operated and maintained on the same zoning lot substantially for the benefit or convenience of the owners, occupants, employees, customers or visitors of the principal use.

(5) When “accessory” is used in the text, it shall have the same meaning as “accessory use” (see Section 35.1-24).

(b) Agriculture: Any use of land which involves the tilling of soil, the growing of crops or plant growth of any kind, or the raising of livestock or poultry for profit. “For profit” means in excess of what a family would normally grow or raise for its own use or consumption, and shall include the processing and retail sale, in a farm produce stand, or otherwise on the premises, of the products of only the farm on which such processing is conducted.

(c) Airport or air landing field: Any area of land or water designated and set aside for the landing or taking-off of aircraft, the discharge or receiving of cargoes and/or passengers, or the repair, fueling or storage of aircraft.

(d) Amend or amendment: Any repeal, modification or addition to a regulation; any new regulation; any change in the numbers, shape, boundary, or area of a district or any repeal or abolition of any map, part thereof, or addition thereto.

(e) Apartment: A room or suite of two (2) or more rooms, which is designed or intended for occupancy by, or which is occupied by, one (1) family doing its cooking therein.

(f) Apartment house: See section 35.1-11.5, Dwelling, multi-family.

(g) Arterial or arterial street: A public street currently classified as an arterial or programmed for improvement to arterial status in the most recently approved city major thoroughfare plan.

(h) Automobile service station: A building, lot, or both, in or upon which gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, and where, in addition, the following services may be rendered and sales made, and no other:

(1) Sales and servicing of spark plugs, batteries, and distributors and distributor parts.

(2) Tire servicing and repair, but not recapping or regrooving.

(3) Replacement of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like.

(4) Radiator cleaning and flushing.

(5) Washing and polishing, and sale of automotive washing and polishing materials.

(6) Greasing and lubrication.

(7) Providing and repairing fuel pumps, oil pumps and lines.

(8) Minor servicing and repair of carburetors.

(9) Emergency wiring repairs.

(10) Adjusting and repairing brakes.

(11) Minor motor adjustments not involving removal of the head or crankcase or racing the motor.

(12) Sales of cold drinks, packaged foods, tobacco and similar convenience goods for filling station customers as accessory and incidental to principal operation.

(13) Provision of road maps and other informational material to customers; provision of restroom facilities.

(14) Virginia state inspection station.

Uses permissible at an automobile service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in service stations. (Ord. No. O-90-047, 2-13-90)

**Sec. 35.1- 11.3. Terms beginning with “B”.**

Terms used in the zoning ordinance, when defined in this section, shall have the following meaning:

(a) Billboard or poster panel: Any exterior sign or advertising structure or portion thereof, including any sign painted directly on any exterior wall, roof, or part of a building or other object, displaying any information other than the name and occupation of the user of the premises or the nature of the business conducted thereon or the products sold, manufactured, processed or available thereon.

(b) Block: An area of land bounded by streets providing access to such area.

(c) Board of adjustments and appeals: That board created and regulated by Section 11-51 to Section 11-61 inclusive.

(d) Board of historic and architectural review: That board created and regulated by Section 35.1-44.1.

(e) Board of zoning appeals: That board created and regulated by Section 15.1-494 to Section 15.1-498 inclusive of the Code of Virginia.

(f) Boardinghouse or lodging house: A residence where the owner resides in which, for compensation, lodging, or meals, or both, are furnished to transient or nontransient guests. A boardinghouse shall not be deemed a home occupation. Boardinghouses or lodging houses shall adhere to Section 35.1-51.1, Boardinghouses, lodging houses, or rooming houses, of the zoning ordinance.

(g) Building: Any structure designed or intended for support, shelter, enclosure or protection of persons, animals, chattels or property.

(h) Building accessory: A building subordinate to, and located on, the same zoning lot with a main building, the use of which is clearly incidental to that of the main building or to the principal use of the land, and which is not attached by any part of a common wall or a common roof to the main building.

(i) Building group: A group of two (2) or more main buildings and any buildings accessory thereto occupying a single zoning lot.

(j) Building, height of: The vertical distance measured from the level of approved street grade opposite the middle of the front of the building to the highest point of roof surface of a flat roof; to the deck line of a mansard floor; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; except that, if a building is located on a terrace, the height above the street grade may be increased by the height of the terrace. In the case of a building set back from the street line thirty-five (35) feet or more, the building height is measured from the average elevation of finished ground surface along the front of the building. On corner lots exceeding twenty thousand (20,000) square feet in area, the height of the building may be measured from either adjoining curb grade. For lots extending through from street to street, the height may be measured from either curb grade, provided that the maximum height permitted on the lower street extends back from such street not less than one hundred fifty (150) feet.

(k) Building line: A line drawn parallel to a lot line at a distance therefrom equal to the depth of a required yard.



(l) Building, main: The building in which is conducted the principal use of the zoning lot on which it is situated in any residential zone; any dwelling shall be deemed to be a main building on the zoning lot on which the same is located if the lot is used primarily for residential purposes.

(m) Building permit: Authorization granted by the city for erection or alteration of structure.

(n) Building, temporary: Any structure which is intended to be used or occupied for only a limited time or which is not permanently supported by a foundation.

(o) Business district: A zoning district whose designation begins with the letter "B".

(p) Business incubator: A facility that provides start-up or emerging businesses with space and shared office equipment, support and business development services, such as management and marketing assistance, for a limited period of time. A business incubator shall meet the following criteria:

(1) It shall contain office uses, and/or light manufacturing, and/or distribution companies under one roof with a minimum of six (6) tenant spaces.

(2) Companies housed in a business incubator shall either provide services or support to existing basic industries, or shall conduct light manufacturing or distribution businesses.

(3) Display rooms for retail sales shall not exceed ten percent (10%) of the gross floor area of the tenant space.

(4) A tenant shall not be allowed to occupy the facility for more than forty-eight (48) months. (Ord. No. O-90-047, 2-13-90; Ord. No. O-90-126, 5-8-90)

**Sec. 35.1- 11.4. Terms beginning with "C".**

Terms used in the zoning ordinance, when defined in this section, shall have the following meaning:

(a) Cemetery: A place used for the permanent commercial interment of dead bodies or the cremated remains thereof. It may be either a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments or a combination thereof.

(b) Certificate of occupancy: Authorization granted by the city for use of a lot or structure.

(c) Channel: A natural or artificial depression of perceptible extent with a definite bed and banks to confine and conduct flowing water.

(d) Care center: A day nursery, nursery school, day camp, summer camp, family day care home or other place for the reception, care, with or without compensation, of persons of any age. For the purpose of the zoning ordinance, a facility providing day care only to less than six (6) persons in a residential setting shall not be considered a care center and shall not be subject to the restrictions of this section. Further, the term shall not include any family-type facility which provides child care to not more than five (5) children placed by order of any court of competent jurisdiction, or by any public welfare department or other government agency having responsibility of placing children for care.

(e) Collector street: A public street currently classified as a collector street or programmed for improvement to collector-street status in the most recently approved city major thoroughfare plan.

(f) Commercial building: A building used only for a commercial use.

(g) Commercial use: Any use involving in part or in whole the storage of merchandise, sale of merchandise, materials or services, but not including home occupations, as defined in this Section 35.1-11.8.

(h) Commercial parking garage: See Section 35.1-11.11, Parking garages.

(i) Commercial parking lot: See Section 35.1-11.11, Parking lot.

(j) Community facility use: A public use in private or public ownership run on a nonprofit basis. Examples are: churches, welfare centers, voluntary hospitals, or privately-endowed museums or libraries. Facilities of private, nonprofit membership organizations for use only by members thereof are also community facilities. Examples may be country clubs, golf courses or community swimming pools.

(k) Comprehensive zoning map amendment: An amendment to the official zoning map where any of the following conditions exist:

(1) The area to be rezoned constitutes an entire neighborhood as defined in the comprehensive plan, or a group of such neighborhoods.

(2) The area to be rezoned includes at least four hundred (400) acres of ground.

(3) The area to be rezoned includes at least five (5) lots, except where all of the said lots are included in a subdivision to be developed as a whole by one developer.

(l) Conditional use: A permit to grant restricted use of property for uses other than those permitted by right.

(m) Conditional zoning or zone: A zoning district or portion thereof, which has been established pursuant to provisions of Article IX of the zoning ordinance and which is subject to reasonable conditions proffered in writing by the owner of the subject property and agreed to by the city council in a zoning action to which such conditions are applicable in addition to those regulations provided for that particular zoning district, or portion thereof, by the overall zoning ordinance.

(n) Conservation: Any action designed to keep a structure, area containing structures, or places from being damaged, lost or wasted.

(o) Construction, start of: The date the building permit was issued for new construction or substantial improvements, meaning the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date.

(p) Court: An open area partly or wholly bounded by buildings, walls, or enclosures.

(q) Coverage, lot: The proportion of a lot covered by the maximum horizontal projected area of a building and its accessory buildings, including overhangs and projections. (Ord. No. O-90-047, 2-13-90; Ord. No. O-91-168, 7-9-91)

#### **Sec. 35.1- 11.5. Terms beginning with “D”.**

Terms used in the zoning ordinance, when defined in this section, shall have the following meaning:

(a) Depth of lot: The mean horizontal distance between the front lot line and rear lot line of a lot.

(b) Detached: A building surrounded by yards or other open area on the same zoning lot.

(c) Development, or to develop: Any man-made change to an improved or unimproved zoning lot, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. To “develop” is to create a development.

(d) Division of inspections: That branch of city government responsible for inspecting all new structural development within the city to assure its conformance with all appropriate regulations.

(e) Division of planning: That branch of city government responsible for the comprehensive planning of the City of Lynchburg.

(f) Dwelling: A building containing only one (1) dwelling unit. The term “dwelling” or any combination thereof shall not be deemed to include hotel, rooming house, motel, clubhouse, hospital or other accommodations used for more or less transient occupancy.

(g) Dwelling, cluster or cluster development: See Section 35.1-11.11, Planned unit development.

(h) Dwelling, detached: A building containing only dwelling units surrounded by yards or other open area on the same zoning lot.

(i) Dwelling, group: A building group consisting only of dwellings occupying a parcel of land in one (1) ownership and having any yard or service area in common.

(j) Dwelling, multi-family: A building or portion thereof designed for or occupied by more than two (2) families, and all living units of which are to be maintained under single ownership or management. This shall be interpreted to include cooperative apartment houses.

(k) Dwelling, multi-family for the elderly: A building or portion thereof designed for or occupied by more than two (2) families, and all living units of which are to be maintained under single ownership or management. This shall be interpreted to include a cooperative apartment house. Provided further, that all occupants of said residential units must be (a) persons sixty-two (62) years of age or older; (b) married couples either of which is sixty-two (62) years of age or older; or (c) handicapped persons under sixty-two (62) years of age who have physical impairments which are expected to be of long-continued or indefinite duration, and which substantially impede the ability of such person to live independently.

(l) Dwelling, semi-detached: One (1) of two (2) buildings, arranged or designed as dwellings located on abutting lots, separated from each other by a party wall, without openings, extending from the cellar floor to the highest point of the roof along the dividing lot line, and separated from any other building or structures by space on all sides.

(m) Dwelling, single-family: A building containing not more than one (1) dwelling unit and occupied by not more than one (1) family.

(n) Dwelling, townhouse, or row house: One (1) of a series of three (3) or more attached dwelling units separated from one another by continuous vertical party walls without openings from basement floor to roof.

(o) Dwelling, two-family (duplex): A building located on one (1) zoning lot containing not more than two (2) dwelling units, arranged one above the other or side by side, and occupied by not more than two (2) families.

(p) Dwelling unit: One (1) or more rooms in a residential building or in a mixed building which are arranged, designed, used or intended for use by one (1) or more persons living together and maintaining a common household, and which include lawful cooking space and lawful sanitary facilities reserved for the occupants thereof. (Ord. No. O-90-047, 2-13-90)

#### **Sec. 35.1- 11.6. Terms beginning with “E”.**

Terms used in the zoning ordinance, when defined in this section, shall have the following meaning:

(a) Easement: A grant by a property owner of the use of a designated part of his land by another party for a specified purpose and for a specified time, which shall be included in the conveyance of land by such easement.

(b) Encroachment lines: The lateral limits or line drawn along each side of and generally parallel to a watercourse or body of water, to preserve the flood carrying capacity of the stream or other body of water and its flood plain, and to assure attainment of the basic objective of improvement plans that may be considered or proposed. Their location along a stream should be such that the floodways between them will effectively carry and discharge a flood not less than the magnitude of the one hundred (100) year flood.

(c) Enlargement, or to enlarge: An addition to the floor area of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use.

To “enlarge” is to make an enlargement.

(d) Equal degree of encroachment: A standard applied in determining the location of encroachment lines so that the hydraulic capacity of flood plain lands on each side of a channel are reduced by an equal amount when calculating the increases in flood stages due to flood plain encroachments.

(e) Extension, or to extend: An increase in the amount of existing floor area used for an existing use within an existing building.

To “extend” is to make an extension. (Ord. No. O-90-047, 2-13-90)

**Sec. 35.1- 11.7. Terms beginning with “F”.**

Terms used in the zoning ordinance, when defined in this section, shall have the following meaning:

(a) Family:

(1) Two (2) or more persons related by blood or marriage, occupying a dwelling, living together and maintaining a household, including not more than one (1) unrelated person.

(2) Not more than three (3) unrelated persons occupying a dwelling, living together, and maintaining a household.

(b) Fire district: The territory defined and limited by the provisions of the BOCA Basic Building Code for the restriction of types of construction to ensure adequate fire protection.

(c) Flood: A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

(d) Flood hazard area: The maximum area of the one hundred (100) year flood plain (as defined in regulations for the national flood insurance program) which is likely to be flooded, or for which mudslides can be reasonably anticipated.

(e) Flood plains: The areas of land adjoining a watercourse which have in the past, or can be reasonably expected in the future, to be covered temporarily by flood waters.

(f) Floodproofing: Combinations of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures and contents of buildings in the regulatory flood plain.

(g) Floodway: The channel of a river or other watercourse and those portions of the adjoining flood plains which are reasonably required to discharge the water of the one hundred (100) year flood (base flood), without causing a more than one (1) foot rise at any point in the city as shown in the city's flood insurance study published by the Federal Emergency Management Agency.

(h) Floodway fringe: That portion of the one hundred (100) year flood plain outside of the floodway.

(i) Floor area: The sum of the gross areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the center lines of walls separating two (2) buildings. In particular, floor area includes:

(1) Basement space, except such space in a basement which has at least one-third (1/3) of its height below curb level, and which is located in a residential building with not more than two (2) stories entirely above curb level.

(2) Elevator shafts or stairwells at each floor.

- (3) Floor space in penthouses.
  - (4) Attic space (whether or not a floor has been laid) providing structural headroom of eight (8) feet or more.
  - (5) Floor space in interior balconies or mezzanines.
  - (6) Floor space in open or roofed terraces, exterior balconies, breezeways, or porches, if more than fifty (50) per cent of the perimeter of such terrace, balcony, breezeway or porch is enclosed.
  - (7) Any other floor space used for dwelling purposes, no matter where located within a building, when not specifically excluded.
  - (8) Floor space in accessory buildings except for floor space used for accessory off-street parking.
- Floor area of a building shall not include:
- (1) Cellar space, except that cellar space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.
  - (2) Elevator or stair bulkheads, accessory water tanks or cooling towers.
  - (3) Uncovered steps.
  - (4) Attic space, whether or not a floor actually has been laid, providing structural headroom of less than eight (8) feet.
  - (5) Floor space in open or roofed terraces, exterior balconies, breezeways or porches, provided that not more than fifty (50) per cent of the perimeter of such terrace, balcony, breezeway or porch is enclosed.
  - (6) Unenclosed floor space used for permitted or required accessory off-street parking spaces.
  - (7) Floor space used for accessory off-street loading berths.
  - (8) Floor space used for mechanical equipment.
  - (j) Floor area ratio: The total floor area on a zoning lot, divided by the lot area of that zoning lot. (For example, a building containing twenty thousand (20,000) square feet of floor area on a zoning lot of ten thousand (10,000) square feet has a floor area ratio of 2.0.)
  - (k) Freeway: A public highway to which access is forbidden except at interchanges with other public highways and, in some cases, at specially designed facilities providing automobile, restaurant and other similar services to motorists using the highway.
  - (l) Frontage: The horizontal length of the front lot line of a zoning lot abutting a public street, road, or highway, or rural right-of-way. (Ord. No. O-90-047, 2-13-90; Ord. No. O-95-052, 3-14-95)

**Sec. 35.1- 11.8. Terms beginning with “G” through “K”.**

Terms used in the zoning ordinance, when defined in this section, shall have the following meaning:

- (a) Garden apartment units: Group multiple dwellings consisting of more than one (1) main building containing more than one (1) unit per building for single-family occupancy.
- (b) Gasoline station: See Section 35.1-11.2, Automobile service station.
- (c) Grade: The intersection of the ground with a wall of a building after all earth movement is completed on a project.
- (d) Group Home: A residential facility wherein (a) the operator is not legally related to the individuals supervised and may be licensed by the state, and wherein (b) four (4) or more individuals are provided with

room, board, specialized and distinctive care, and daily supervision. For the purpose of the zoning ordinance, a facility providing care to less than four (4) persons shall not be considered a group home. The term "Group Home" would include but not be limited to such groups as: foster family homes, homes for adults, abused women, the retarded or mentally handicapped, or physically handicapped. This definition does not include pre-release or post-release individuals who have been incarcerated. Facilities for day care for adults or children shall adhere to Section 35.1-54, Care Centers, of the zoning ordinance.

However, a residential facility in which no more than eight (8) mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or other staff persons, shall be considered for all purposes residential occupancy by a single family. For the purposes of this section, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Section 54.1-3401 of the state code. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. This type of residential facility shall be deemed to be any group home or other residential facility for which the department of mental health, mental retardation and substance abuse services is the licensing authority pursuant to this Code (1990, c.814).

(e) Guest: Any person hiring and occupying a room for sleeping purposes.

(f) Height of building: See Section 35.1-11.3, Building, height of.

(g) Historic area, historic place, or historic structure:

(1) Any structure, area containing structures, or place in which historic events occurred; or having special public value because of notable architectural or other features, relating to the cultural or artistic heritage of the community of such significance as to warrant conservation and preservation.

(2) Any structure that is:

a. listed individually in the national register of historic places (a listing maintained by the department of the interior) as meeting the requirements for individual listing on the national register;

b. certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

c. individually listed on a state inventory or historic places in states with historic preservation programs which have been approved by the secretary of the interior; or

d. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

i. by an approved state program as determined by the secretary of the interior or

ii. directly by the secretary of the interior in states without approved programs.

(h) Historic building map: The map of Lynchburg indicating certain structures as historic buildings.

(i) Home occupation: An accessory use which:

(1) Is clearly incidental to or secondary to the residential use of a dwelling unit.

(2) Is customarily and traditionally carried on within a dwelling unit by one (1) or more occupants of such dwelling unit, except that, in connection with the practice of a profession, one (1) person not residing in such dwelling unit may be employed.

(3) Occupies not more than twenty-five (25) per cent of the total floor area of such dwelling unit, and in no event more than five hundred (500) square feet of floor area.

(j) Homes association: An incorporated, nonprofit organization operating under recorded land agreements through which (a) each lot and/or homeowner in a planned unit or other described land area is automatically a member; and (b) each lot is automatically subject to a charge for a proportionate share of the expenses for the home association's activities, such as common property maintenance.

(k) Hospitals: An institution receiving in-patients and rendering medical, surgical, and/or obstetrical care to private and charity patients, and usually including research and training activities. This shall include general hospitals and institutions in which service is limited to special fields, such as cardiac, eye, ear, nose and throat, pediatric, orthopedic, skin and cancer, tuberculosis, chronic disease and obstetrics. Hospital patients generally require intensive care for periods generally not exceeding several months. (See also Section 35.1-11.10, Nursing Home, and Section 35.1-11.12, Sanatorium.)

(l) Hotel: A building or part thereof containing five (5) or more guest rooms, without kitchens, where lodging is provided for compensation, excluding a fraternity or sorority house, a school or college dormitory, or a tourist home as defined in Section 35.1-11.13.

(m) Illegal use: Any use, whether of a building or other structure or of a tract of land, in which a violation of any provision of the zoning ordinance has been committed or shall exist.

(n) Industrial district: Any district whose designation begins with the letter "I".

(o) Inventory: The inventory of historic landmarks, buildings and structures as prepared by the board of historic and architectural review.

(p) Junk yard: The use of any space, whether inside or outside a building, for the abandonment, storage, keeping, collection, disassembling or bailing of paper, rags, scrap metal, or other scrap or discarded materials, or for the abandonment, demolition, dismantling, or salvaging of automobiles or other vehicles or machinery or parts thereof; provided, that this definition shall not apply to any such use conducted solely as an accessory use and occupying not more than one hundred (100) square feet of the area of any lot other than any portion of that half thereof that adjoins any street.

(q) Kennel: Any building, enclosure, structure, establishment and/or land where dogs, cats, household pets or any other domestic animals are sheltered, fed or watered, groomed, shown, trained, bred, boarded and exercised, cared for or sold for either commercial gain or in exchange for a fee. (Ord. No. O-90-047, 2-13-90; Ord. No. O-91-168, 7-9-91; Ord. No. O-92-365, 12-8-92; Ord. No. O-95-053, 3-14-95)

#### **Sec. 35.1- 11.9. Terms beginning with "L".**

Terms used in the zoning ordinance, when defined in this section, shall have the following meaning:

(a) Land with minor improvements: A tract of land which:

(1) Does not include any building or other structure.

(2) Includes a building or other structure with a floor area of less than four hundred (400) square feet.

(b) Local street: A public street not classified as a freeway, arterial or collector street under the definitions in this section.

(c) Lodging house: See Section 35.1-11.3, Boardinghouse.

(d) Lot:

(1) A lot of record existing on the effective date of the zoning ordinance or any applicable subsequent amendment thereto.

(2) A tract of land, either unsubdivided or consisting of two (2) or more contiguous lots of record, located within a single block which on the effective date of the zoning ordinance or any applicable amendment thereto was in single ownership or control.

(3) A tract of land located within a single block, which at the time of filing for a building permit (or, if no building permit is required, at the time of filing for a certificate of occupancy), is designated by its owner or developers as a tract all of which is to be used, developed or built upon as a unit under single ownership or control.

(4) A lot may be subdivided into two (2) or more lots, provided that all resulting lots and all buildings thereon which were constructed after the effective date of the zoning ordinance or any applicable subsequent amendment thereto shall comply with all the provisions of the zoning ordinance. In such case, the designation of such lots shall be made at the time of filing for a certificate of occupancy.

(e) Lot area: The area of a lot; provided, that if that lot includes any part of the area of a street closed subsequent to the effective date of the zoning ordinance, not more than one-half (1/2) the area of such closed street shall be counted as lot area for purposes of determining the maximum floor area ratio or the required lot area per dwelling unit or lot area per room for such zoning lot.

(f) Lot area per dwelling unit: That portion of the lot area required for each dwelling unit located on a zoning lot.

(g) Lot, corner: Either a lot bounded entirely by streets or a lot in which the interior angle formed by the extensions of the street lines in the directions which they take at their intersections with lot lines other than street lines forms an angle of one hundred thirty-five (135) degrees or less. In the event that any street line is a curve at its point of intersection with a lot line other than a street line, the tangent to the curve at that point shall be considered the direction of the street line. Any portion of a corner lot whose nearest frontage is more than one hundred (100) feet from the point of intersection of the two (2) street lines or of the two (2) tangents shall be subject to the regulations for a through lot or for an interior lot, whichever is applicable.

(h) Lot coverage: See Section 35.1-11.4, Coverage, lot.

(i) Lot depth: See Section 35.1-11.5, Depth of lot.

(j) Lot, interior: Any lot neither a corner lot nor a through lot.

(k) Lot line: A boundary of a lot.

(l) Lot line, front: A street line.

(m) Lot line, rear: Any lot line, except a front lot line, which is parallel or within forty-five (45) degrees of being parallel to and does not intersect any street line bounding such lot.

(n) Lot line, side: Any lot line which is not a front lot line or a rear lot line.

(o) Lot of record: A lot which is part of a subdivision recorded in the office of the city clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

(p) Lot, through: Any lot, not a corner lot, which adjoins two (2) street lines opposite to each other and parallel or within forty-five (45) degrees of being parallel to each other.

(q) Lot width: The horizontal distance between the side lot lines of a zoning lot at the building line. (Ord. No. O-90-047, 2-13-90)



**Sec. 35.1-11.10. Terms beginning with “M” through “O”.**

Terms used in the zoning ordinance, when defined in this section, shall have the following meaning:

(a) **Manufactured home:** A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term “manufactured home” also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles. (See also Mobile home or trailer court).

(b) **Manufactured home park or subdivision:** A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(c) **Medical or dental clinics:** Any building or group of buildings occupied by two (2) or more medical or dental practitioners for the purpose of providing health services to people on an out-patient basis. (See also Nursing homes, Section 35.1-11.8, Hospitals, and Section 35.1-11.12, Sanatorium).

(d) **Medical practitioner:** A licensed physician, dentist, osteopath, chiropractor, chiropodist (podiatrist), psychologist or optometrist (but not optician).

(e) **Metes and bounds:** The specific boundaries of an area as measured between geographical points.

(f) **Minor map amendment:** A change in the official zoning map which is not included in the definition of comprehensive zoning map amendment.

(g) **Mobile home:** A structure or vehicle with the following characteristics:

(1) It is used, designed for use or capable of being used as living quarters and contains sleeping accommodations, a flush toilet, a tub or shower bath, kitchen facilities.

(2) It is transportable in one (1) or more sections, eight (8) body feet or more in width and is thirty-two (32) body feet or more in length, and which is built on a permanent chassis, and designed to be used with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

A recreational vehicle or a trailer is not a mobile home. (See also Manufactured home and Section 35.1-11.13, Trailer).

(h) **Mobile home or trailer court:** Any lot, parcel or tract of land, together with open spaces required by the zoning ordinance, used, designed, maintained or held out to accommodate one (1) or more mobile homes or trailers, including all buildings, structures, tents, vehicles, accessories or appurtenances used or intended as equipment of such mobile home or trailer court, whether or not a charge is made for use of the court and/or its facilities. A mobile home or trailer court does not include automobile mobile home, or trailer sales lots, on which unoccupied mobile homes or trailers are parked for inspection and sale. A mobile home court provides for the permanent or long-term location of mobile homes. A trailer court provides for the transient, short-term location of travel trailers. (See also Manufactured home park or subdivision). (i) **Motel or tourist cabin:** A building or group of buildings containing ten (10) or more guest rooms or suites designed or intended to be used, let or hired out which:

(1) Contain living or sleeping accommodations used primarily for transient occupancy.

(2) Have individual entrances from outside the building to serve each such living or sleeping unit.

(j) **New construction:** For flood plain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a flood plain management regulation adopted by the city.

(k) Nonconforming: Any lawful use, whether of a building or other structure or of a tract of land, which does not conform to the applicable use regulations of the district in which it is located, either on the effective date of the zoning ordinance, or as a result of any subsequent amendment thereto.

A nonconforming use shall result from failure to conform to the applicable district regulations on either permitted uses or performance standards. However, no existing use shall be deemed nonconforming solely because of any of the following:

- (1) The existence of less than the required accessory off-street parking spaces or loading berths.
- (2) The existence of nonconforming accessory signs.

(l) Nursing homes: Rest homes and convalescent homes devoted primarily to the maintenance and operation of residential facilities for the treatment and care of any persons suffering from illnesses, diseases, deformities or injuries not requiring the intensive care that is normally provided by hospitals, but do require care in excess of room and board and who need medical, nursing, convalescent or chronic care. Institutions primarily for the treatment and care of mental patients, alcoholics or drug addicts, and facilities serving less than four (4) persons shall not, for the purpose of the zoning ordinance, be considered to be a nursing home. (See also Medical clinics, Section 35.1-11.8, Hospitals, and Section 35.1-11.12, Sanitorium).

(m) Obstruction: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across or projecting into any channel, watercourse or flood hazard area which may impede, retard or change the direction of flow of water, either in itself or by catching or collecting debris carried by such water or that is placed where the flow of water might carry the same downstream to the damage of life or property.

(n) Official zoning map: That map dividing the city into specific zones or districts.

(o) One hundred (100) year flood (base flood): A flood that has one (1) chance in one hundred (100) or a one (1) per cent chance of being equalled or exceeded in any given year. (Ord. No. O-90-047, 2-13-90; Ord. No. O-91-168, 7-9-91)

### **Sec. 35.1- 11.11. Terms beginning with “P” through “R”.**

Terms used in this zoning ordinance, when defined in this section, shall have the following meaning:

(a) Parking area, off-street: An off-street area containing one (1) or more parking spaces, with passageways and driveways appurtenant thereto. In general, there shall be an average of at least three hundred (300) square feet of parking area per parking space and the required number of usable parking spaces.

(b) Parking garages: A building occupied by a public, community, commercial or private establishment providing space for the temporary storage of six (6) or more automobiles and other vehicles, where service or repair facilities are not permitted. A parking garage shall not be considered an accessory use, nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts thereof, or junk, nor shall the sale of automobiles or trailers take place within it unless otherwise permitted by the zoning ordinance.

(c) Parking lot: An open lot serving the functions defined above for a parking garage.

(d) Parking space: An off-street space available for the parking of one (1) motor vehicle on a transient basis and having a minimum width of nine (9) feet and an area of not less than one hundred ninety (190) square feet, exclusive of passageways and driveways appurtenant thereto and having direct usable access to the street.

(e) Planned unit development: A multiple-unit residential development of at least five (5) acres laid out in accordance with a preconceived site plan and in harmony with provisions and procedures for the “PUD”, planned unit development zoning district.

(f) Preservation: Any activity designed to prevent deterioration or destruction of a structure, a group of structures, or an area or a district.

(g) Private recreational facilities: A facility such as a swimming pool, tennis court or basketball court which is an accessory use located on a residential lot, the use of which is restricted to the occupants of the principal use and guests for whom no admission or membership fees are charged.

(h) Programmed: For the purposes of the zoning ordinance, the word “programmed” shall refer to a public facility which has been formally scheduled for construction within the following ten (10) years. Such formal scheduling may be in terms of an approved capital improvements program, an officially adopted thoroughfare, public utilities or community facilities plan specifying the approximate date of construction of the facility, or a similar official plan or program.

(i) Public: Any land, structure or building owned, used or maintained by the city government, or a regional authority of which the city is a member, or their agencies.

(j) Public utility: A public utility is an activity, or a building housing such an activity, which operates to serve the community as a whole, or a portion of the community, and which is publicly run or subject to special government controls.

(k) Reach: Longitudinal segments of a river or stream, which will be affected by the placement of an obstruction in a floodway or floodway fringe.

(l) Recreational vehicle: A vehicle which is:

- (1) built on a single chassis;
- (2) four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel or seasonal use.

(m) Reconstruction: Any activity designed to rebuild entirely, or partially, a structure.

(n) Recycling bins: Recycling bin operations shall be located in industrial or business districts in an area no larger than five thousand (5,000) square feet or at public school or public recreation sites for the collection of recyclable materials. The operation of the recycling bins and the materials allowed to be collected, shall be under the supervision of the director of public works, and the location of the recycling bins shall be approved by the director of community planning and development. The definition does not include recycling containers which are used on site by a private entity for the purpose of storing recyclable waste materials generated only by such private entity.

(o) Rehabilitation: Any activity designed to place a structure into a usable condition with or without architectural change.

(p) Regulatory flood protection level: That level delineated by the one hundred (100) year flood.

(q) Renovation: Any activity relating to the updating and/or the modernization of an older structure involving architectural change.

(r) Residence or residential: A building or part of a building containing dwelling units or rooming units, including single-family or two-family houses, multiple dwellings, boarding or rooming houses or apartment hotels. Residences do not include the following:

- (1) Such transient accommodations as transient hotels, motels, tourist cabins or trailer courts.
- (2) Dormitories, fraternity or sorority houses, monasteries or convents.

(3) In a mixed building, that part of the building used for any nonresidential uses, except accessory to residential uses.

“Residential” means pertaining to a residence.

(s) Residence district: Any district whose designation begins with the letter “R”.

(t) Residence, single-family: A building containing only one (1) dwelling unit.

(u) Restoration: Any activity designed to impart a major flavor of an earlier state of a building.

(v) Riding stable: Any zoning lot used or designed for the boarding, breeding or care of horses or ponies, other than for farming or agricultural purposes, either with or without instruction in riding.

(w) Rooming house: A dwelling consisting of one (1) single building in which, for compensation, lodging or meals, or both, are furnished to transient or nontransient guests. A rooming house shall not be deemed a home occupation. Rooming houses shall adhere to Section 35.1-51.1, Boardinghouses, lodging houses, or rooming houses, of the zoning ordinance. (Ord. No. O-90-047, 2-13-90; Ord. No. O-92-142, 5-12-92; Ord. No. O-92-365, 12-8-92)

**Sec. 35.1- 11.12. Terms beginning with “S”.**

Terms used in the zoning ordinance, when defined in this section, shall have the following meaning:

(a) Sanatorium or sanitarium: An institution for the treatment and care of the chronically ill or for patients requiring long-term therapy, rest and recuperation. Examples are institutions primarily for the treatment and care of mentally handicapped and mental patients, epileptics, alcoholics or drug addicts. (See also Section 35.1-11.8, Hospitals, Section 35.1-11.10, Nursing homes, and Section 35.1-11.10, Medical clinic).

(b) Sanitary or solid waste management facility: Any facility or zoning lot used for: (i) the disposal of solid waste materials by abandonment, discarding, dumping, reduction, burial, incineration or any other means, including accessory uses such as recycling, cogeneration, and methane recovery, or (ii) a transfer station for solid waste storage or collection at which solid waste is transferred from collection vehicles to haulage vehicles, including but not limited to trucks, trains, and tandem trailers, for transportation to a central solid waste management facility for disposal or resource recovery. This definition does not include transportable waste receptacles of commercial solid waste generated by establishments engaged in business operations other than manufacturing. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants, shopping centers, motels, hotels, multiple residences, picnic grounds and day-use recreation areas. This definition also does not include recycling bins, which are defined in Section 35.1-11.11.

(c) Sanitary or solid waste management facility, private: A sanitary or solid waste management facility that is not a public sanitary or solid waste management facility, and which is owned and operated by a private entity for the purpose of handling solid waste generated only by such private entity.

(d) Sanitary or solid waste management facility, public: A sanitary or solid waste management facility owned or operated by or on behalf of the City of Lynchburg or a regional solid waste management authority of which the City of Lynchburg is a member.

(e) School: An institution, including kindergartens providing full-time day instruction and a course of study which meets the requirements of the laws of the State of Virginia.

(f) Service station: See Section 35.1-11.2, Automobile service station.

(g) Setback: See Section 35.1-11.13, Yard.

(h) Sign: Any writing (including letter, word or numeral), pictorial representation (including illustration or decoration), emblem (including device, symbol, or trademark), flag (including banner or pennant) or any other figure of similar character which is:

(1) A structure or any part thereof, or is attached to, painted on or in any other manner represented on a building or other structure.

(2) Used to announce, direct attention to or advertise.

(3) Visible from outside of building. A sign shall include writing, representation or other figure or similar character within a building only when illuminated or located in a window.

(4) Accessory to the other uses permitted on the zoning lot.

The following shall not be subject to the provisions of the zoning ordinance.

(1) Signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal notices or warnings at railroad crossings.

(2) Memorial signs or tablets.

(i) Sign, business: An accessory sign which directs attention to a profession, business, commodity, service or entertainment conducted, sold or offered upon the same zoning lot.

(j) Sign, flashing: Any illuminated sign which does not maintain, when in operation or use, a stationary light or constant intensity of color.

(k) Sign, illuminated: A sign designed to give forth any artificial light or reflect such light from an artificial source.

(l) Sign, surface area of: See Surface area.

(m) Site plan review: See Section 35.1-14.

(n) Solid waste: Any discarded material, including, but not limited to, garbage, trash, refuse, junk, debris, leaves, brush, land clearing debris, demolition materials, ash, sludge, spoil, used or waste oil, and machinery or vehicles or parts thereof.

(o) Stable, riding: See Section 35.1-11.11, Riding stable.

(p) Standard project flood limit (SPFL): That portion of land inside the floodplain that would be required to carry forty (40) per cent to sixty (60) per cent of the maximum probable flood, and normally could be expected to occur at a five hundred (500) year frequency.

(q) Story: That part of a building between the surface of a floor (whether or not counted for purposes of computing floor area ratio) and the ceiling immediately above. However, a cellar is not a story.

(r) Street: A street, highway, avenue, lane, marginal access street, service drive, alley, bridge, viaduct, or any segment thereof, lying within a public right-of-way at least twenty (20) feet in width.

(s) Street, center line of: A line established as a center line of a street by any state, city or other official agency or governing body having jurisdiction thereof and shown as such on an officially adopted or legally recorded map. If there is no official center line of a street, the center line shall be a line lying midway between the street or right-of-way lines thereof. Where street lines are indeterminate and a pavement or a traveled way exists, the center line shall be established by the department of public works or, in the absence of a determination by the department of public works, shall be assumed to be a line midway between the edges of such pavement or traveled way.

(t) Street line: A line defining the edge of a street right-of-way and separating the street from abutting property or lots. If, on the master plan of streets and highways duly adopted by the city, a street is

scheduled for future widening, the proposed right-of-way line shown on the master plan shall be the street line.

(u) Street width: The distance between street lines, measured at right angles to the center line of the street.

(v) Structure: Anything constructed, set, placed or erected on the ground or attached to the ground including, but not limited to, buildings, factories, sheds, cabins, mobile homes and other similar items which shall be anchored and floodproofed within the flood plain.

(w) Subdivision: The division of any tract or parcel of land, including frontage along an existing street or highway, into two (2) or more zoning lots; or any improvement of land by two (2) or more principal buildings for the purpose, whether immediate or future, of building development for rental, lease or sale, which may include changes in street or lot lines; provided, however, that this definition of a subdivision shall not include the divisions of land into ten (10) acres or more for agricultural uses.

(x) Substantial improvement:

(1) Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) per cent of the market value of the structure either:

- a. before the improvement or repair is started; or
- b. if the structure has been damaged, and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- a. any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- b. any alteration of a structure listed on the national register of historic places or a state inventory of historic places.

(2) The repair, reconstruction or improvement of the streets, utilities and pads in a mobile home park or mobile home subdivision which equals or exceeds fifty (50) per cent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced.

(y) Surface area (of a sign): The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, trim, embellishment or any figure of similar character, together with any material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. In any event, the supports or uprights on which such sign is supported shall not be included in determining the surface area of a sign unless there is writing on such supports. For the purpose of computing surface area, a V-type or double-faced sign shall be considered a single structure; provided, that the interior angle does not exceed ninety (90) degrees.

(z) Swimming pool, commercial: A swimming pool and/or wading pool, including buildings necessary or incidental thereto, open to the general public and operated for profit.

(aa) Swimming pool, community: A swimming pool and/or wading pool, including buildings necessary or incidental thereto, operated by members of more than two (2) families for the benefit of such group and not open to the general public, whether incorporated or unincorporated, whether organized as a club or cooperative or association, providing that it is not organized for profit and that the right to use said pool is restricted to such families and their guests. A swimming pool and/or wading pool operated as part of a multiple dwelling is also a community swimming pool, providing that it is not operated for profit, and that the right to use said pool is restricted to tenants of the multiple dwelling and their guests.

(bb) Swimming pool, private: See Section 35.1-11.11, Private recreational facilities. (Ord. No. O-90-047, 2-13-90; Ord. No. O-92-142, 5-12-92)

**Sec. 35.1- 11.13. Terms beginning with “T” through “Z”.**

Terms used in the zoning ordinance, when defined in this section, shall have the following meaning:

(a) Tourist home or bed and breakfast: A dwelling, occupied as such, in which sleeping accommodations in less than six (6) rooms with not more than four (4) persons per room are provided or offered for transient guests for compensation, under the management of the occupants of that dwelling for dwelling purposes. A tourist home or bed and breakfast shall not be deemed a home occupation.

(b) Townhouse: One of a series of from three (3) to nine (9) attached dwellings separated from one another by common vertical walls with no openings; provided, that the maximum density permitted hereunder shall not be exceeded.

(c) Trailer: A residence, house car, camp car or any portable or mobile vehicle on wheels, skids or rollers, not structurally anchored to a foundation, either self-propelled or propelled by an attached vehicle, animal, person or other propelling apparatus, which is used or may be used for residential, commercial, recreational, hauling or storage purposes.

(d) Trailer court: See Section 35.1-11.10, Mobile home or trailer court.

(e) Use:

(1) Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied.

(2) Any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

The term “permitted use,” or its equivalent, shall not be deemed to include any nonconforming use.

(f) Use, accessory: See Section 35.1-11.2, Accessory use.

(g) Water surface profiles: The elevations in relation to the mean sea level expected to be reached by floods of various magnitudes and frequencies at pertinent points along a stream.

(h) Yard: That portion of a lot extending open and unobstructed from the lowest level to the sky along a lot line, and from the lot line for a depth or width set forth in the applicable district yard regulations.

(i) Yard, front: A yard extending along the full length of a front lot line.

(j) Yard line, front: A line drawn parallel to a front lot line at a distance therefrom equal to the depth of a required front yard.

(k) Yard line, rear: A line drawn parallel to a rear lot line at a distance therefrom equal to the depth of a required rear yard.

(l) Yard, rear: A yard extending for the full length of a rear lot line. For a triangular lot, the rear yard shall be measured from the building or structure extending farthest to the rear to the nearest point where a line extending the line of the side of such structure intersects a side lot line.

(m) Yard Sale: Permitted in Zoning Districts used for residential purposes provided the following is adhered to:

(1) A total of two (2) sales permitted per calendar year per street address.

(2) A sale shall not exceed two (2) consecutive days.

(3) Sale shall consist primarily of those personal items accumulated and used by the occupant of the premises.

(4) There shall be a minimum interval of four (4) months between sales.

(5) One sign not exceeding three (3) square feet in area will be permitted on premises the day of the sale and shall be promptly removed at end of each sale day.

(6) Signs advertising a sale are prohibited on street right-of-ways.

(7) Permitted sale shall not create adverse conditions such as noise, nor impede pedestrian or vehicular traffic.

(n) Yard, side: An open, unoccupied space between the side line of the lot and the nearest line of a building and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot lines. The width of a side yard shall be measured at right angles to the side line of the lot.

(o) Zoning maps: Maps incorporated into the provisions of the zoning ordinance in accordance with the provisions of Section 35.1-4. (Ord. No. O-90-047, 2-13-90)

#### **ARTICLE IV. ADMINISTRATIVE PROCEDURES**

##### **Sec. 35.1- 12. General.**

(a) Development permission.

(1) Certificate of occupancy. No lot, building or structure shall hereafter be used by any person or organization until such person or organization has obtained from the City of Lynchburg an occupancy permit specifying the proposed use, the extent of the property and such other information as shall be determined by the city council to be necessary to the effective operation of these and other duly enacted city regulations.

(2) Building permit. No building or structure or part thereof shall be erected, enlarged or altered by any person or organization until such person or organization has met all site plan requirements and has obtained from the City of Lynchburg a building permit specifying the use and method of construction of such building, structure or alteration, including such information as is determined by the city council to be necessary to the effective operation of these regulations.

(b) Conformance to building and occupancy permits.

(1) Occupancy permit. The use of any lot, building or structure shall hereafter conform to the terms of the occupancy permit duly issued for that lot, building or structure and to the regulations of this ordinance.

(2) Building permit. The construction, design and use of every building, structure or alteration shall conform to the terms of the building permit duly issued for that building, structure or alteration.

(c) Conformance of building and occupancy permits to city ordinances. No building or occupancy permit shall be issued which is not in conformance with this ordinance and other pertinent regulations of the City of Lynchburg.

(d) Division of inspections. The administration of this ordinance shall be the responsibility of the division of inspections. The division shall receive applications for building and occupancy permits and other permits specified by this ordinance and shall administer the review and approval of such permits under these regulations. The division shall also ensure the conformance of building and use permit conditions to all applicable city regulations.



(e) Procedure for review and issuance of development permission. Application for any permit regulated by this ordinance shall be made to the division of inspections. If the division of inspections finds that the requested permission is in conformance with the regulations for uses permitted by right or as accessory uses in this ordinance and with other applicable city regulations, the division of inspections shall issue a building or occupancy permit as requested. If the requested use or construction requires site plan review, a conditional use permit, planned unit development or any other special permission described in this article, the division of inspections shall transmit the application to the division of planning.

(f) Planning commission. The planning commission shall review and recommend action on conditional use permits and specified site plan review, including that for planned unit developments, and shall make determinations on the appropriateness to zoning districts of uses not listed specifically in this ordinance. The planning commission shall also recommend action to the city council on amendments to this ordinance, initiate action on applications for planned unit developments and perform other actions for the city council relating to this ordinance.

(g) City council. The city council has primary responsibility for the enactment and amendment of this ordinance.

(h) The board of zoning appeals.

(1) Organization. The board of zoning appeals shall consist of five (5) residents of the City of Lynchburg, appointed by the circuit court of the City of Lynchburg. Their terms of office shall be five (5) years, with the term of one (1) member expiring in each year. The secretary of the board shall notify the court at least thirty (30) days in advance of the expiration of any term of office and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the city except that one (1) may be a member of the planning commission. A member whose term expires shall continue to serve until his successor is appointed and qualifies.

The board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall not be less than a majority of all members of the board. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the City of Lynchburg, Virginia, and general laws of the commonwealth for the conduct of its affairs. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the city council at least once each year.

Within the limits of funds appropriated by the city council, the board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after hearings held after at least a fifteen (15) day notice.

(2) Powers and duties:

a. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this ordinance. No such appeal shall be heard by the board except after notice and hearing as provided by Section 35.1-19.

b. To authorize upon appeal or original application in specific cases such variance as defined in Section 35.1-13(a) from the terms of this ordinance as will not be contrary to the public interest when owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship. Such authorization shall be in conformance with Section 35.1-13 of this chapter.

c. To hear and decide applications for interpretation of the district map where there is an uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearings with notice as required by Section 35.1-19, the board may interpret the official zoning map in such a way as to carry out the intent and purpose of the ordinance for the particular

section or district in question as specified in Section 35.1-6. The board shall not have the power, however, to rezone property or to change the locations of district boundaries as established by ordinance.

No provisions of this section shall be construed as granting the board the power to rezone property.

d. To grant upon written application, in restricted areas, conditional use permits, revocable upon thirty (30) days' notice from the zoning administrator, for the following uses only:

1. The use of an open lot for storage purposes not permitted by this ordinance; provided no building or structure is to be erected other than a small office or quarters for a watchman;

2. The use of any building or structure, existing on the effective date of this chapter, for business or industrial purposes; provided that there will not be any exterior structural alterations or additions to such building or structure; and provided further, that only such mechanical equipment or machinery may be used in connection with the use of such lot, building or structure as deemed appropriate by the board. The board may, at its discretion, authorize a sign which may be necessary to identify any business or industrial use for which a conditional use permit is approved in accordance with the provisions of this section. A conditional use permit shall be granted only to the person(s) who will actually conduct the business or industrial use for which said permit is sought, and such permit shall not be transferable.

e. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest and may require a guarantee or bond, payable to the City of Lynchburg, in such amount and for such period of time as the board may designate to ensure that the conditions imposed are being and will continue to be complied with.

f. No such permit may be granted except after notice and hearing as provided in Section 35.1-19.

(3) Rules, hearings, records and minutes. The board shall adopt from time to time such rules and regulations as it may deem necessary to interpret and carry into effect the provisions of this ordinance. Meetings shall be held at the call of the chairman and at such other times as the board may determine. Such chairman or, in his absence, the vice chairman, may administer oaths and compel the attendance of witnesses. All hearings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. A copy of the minutes of each meeting shall be sent to the secretary of the planning commission. The presence of three (3) members shall constitute a quorum. The concurring vote of three (3) members of the board shall be necessary to reverse any order, requirement, decision or determination of the inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance, or to affect any variation in this ordinance.

(i) Fees for development permission. In order to cover costs by the City of Lynchburg incidental to the review, hearing and reporting of the processing of development permissions, the following fees shall be required to accompany applications for such permissions:

(1) Application for development permission (building permit) of a use permitted by right is as per fee schedule of the city building code.

(2) Application for a conditional use permit to the Board of Zoning Appeals or for a variance shall be accompanied by a check payable to the City of Lynchburg for each petition submitted in the amount set forth in the fee schedule adopted by city council. (Ord. No. O-78-352, 12-12-78, Ord. No. O-79-114, § 1, 5-8-79; Ord. No. O-84-140, § 1, 6-12-84, eff. 7-1-84; Ord. No. O-86-198, § 1, 8-12-86; Ord. No. O-88-009, § 1, 1-12-88; Ord. No. O-90-223, 7-10-90, eff. 7-1-90; Ord. No. O-98-124, 6-9-98; Ord. No. O-00-023, 2-8-00)

**Sec. 35.1-12.1. Applicant to pay delinquent taxes.**

Neither the city nor any of its boards or commissions will accept or process any application for a special exception, special use permit, variance, rezoning, conditional use permit or any other land use permit until the applicant produces satisfactory evidence that any delinquent real estate taxes, including penalty, interest and liens, which have been properly assessed against the property which is the subject of the application have been paid. (Ord. No. O-99-007, 1-12-99)



**Sec. 35.1-13. Variances.**

(a) Definitions. Variance means, in the application of the zoning ordinance, a reasonable deviation from those provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done. It shall not include a change in use which change shall be accomplished by a rezoning or by conditional zoning.

(b) Intent. Variances may be granted to the regulations of this ordinance when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardships; provided that the spirit of this ordinance shall be preserved and substantial justice done.

(c) Conditions. When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the condition, situation or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this ordinance.

No such variance shall be authorized by the board of zoning appeals (or the zoning administrator) unless it finds:

- (1) That the strict application of the ordinance would produce undue hardship.
- (2) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- (3) That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
- (4) That within the intent and purpose of this ordinance, the variance, if granted, is the minimum variance necessary to afford relief.

The zoning administrator may authorize a variance, not to exceed one (1) foot from the required dimension, for a building setback for one and two-family dwellings. The zoning administrator shall give written notice of the request for such a variance to the adjacent property owner(s) at the expense of the petitioner, as provided for in Section 35.1-19. The adjacent property owner(s) shall be given an opportunity to respond to the request within twenty-one (21) days of the date of the notice. If any adjoining property owner(s) object to the said request within the time specified above, the request shall be transferred to the board of zoning appeals for a decision. The cost of this notification shall be taxed to the applicant, unless waived by the city, at the standard rate as determined by the city council's current fee schedule for each written notice.

No such variance shall be authorized by the board except after notice and hearing as required by Section 35.1-19.

No variances shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

No variance shall be authorized to the sign requirements contained within this ordinance for commercially or industrially zoned land that would exceed the "Rules and Regulations Controlling Outdoor Advertising in Zoned and Unzoned Commercial and Industrial Areas" adopted by the State of Virginia and the Virginia department of highways and transportation.

In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond, payable to the City of Lynchburg, in such amount and for such period of time as the board may designate, to ensure that the conditions imposed are being and will continue to be complied with.

It shall be a further requirement that the decision or determination of the board of zoning appeals shall set forth each required finding and such other findings as shall be appropriate in each specific grant of a variance, and in each denial thereof, which of the findings have not been satisfied. In any such case, each finding shall be supported by evidence in the record.

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(d) Flood hazard considerations:

(1) Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;

(2) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures listed herein;

(3) Variances shall only be issued upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances;

(4) Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(5) The city shall notify the applicant in writing over the signature of the zoning administrator that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage, and such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required below;

(6) The city shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual report submitted to the administrator.

(e) Lapse of variance. If a building permit for construction authorized by a variance under this action shall not have been applied for within six (6) months of the granting of such variance, the variance so granted shall become void.

(f) Fees for variances. See Section 35.1-12. (Ord. No. O-78-352, 12-12-78; Ord. No. O-82-189, §1, 9-14-82; Ord. No. O-88-009, § 1, 1-12-88; Ord. No. O-90-223, 7-10-90, eff. 7-1-90; Ord. No. O-00-023, 2-8-00)

**Sec. 35.1- 14. Site plan re view.**

(a) Intent. Site plan review is intended to ensure proper design in types of development which can have deleterious effects on their surroundings. These effects are subject to modification or reduction through the physical design of such development. Review of the design, therefore, is aimed at the greatest possible benefit to the community as a result of building and site design.

(b) Developments subject to site plan review. The following types of development shall be subject to the site plan review provisions of this ordinance, including petitions for a rezoning request or for a conditional use permit request:

(1) All commercial and industrial facilities, including off-street parking;

(2) All institutional facilities, such as schools, hospitals and clubs;

(3) All residential developments, involving more than two (2) dwelling units in one (1) building or on one (1) lot;

(4) Planned unit developments (see Section 35.1-42.1 et seq.);

(5) Conditional use permits (as specified in this ordinance).

(c) Site plan procedures and review:



(1) Definitions:

a. Schematic site plan. Plan to accompany all rezoning petitions with the exception of CCD and PUD requests.

b. Preliminary site plan. Plan to accompany CCD requests; however, final CCD rezoning approval will be contingent upon approval of a final site plan.

c. Final site plan. Plan required for final CCD rezoning approval and/or issuance of a building permit.

(d) Plan requirements: The planning division will require an appropriate number of clearly legible copies for each of the following applicable site plans.

(1) The schematic site plan shall include the following:

a. Name and address of petitioner and owner;

b. Name and location of development;

c. Property lines by metes and bounds;

d. Existing and proposed zoning;

e. Type of proposed zoning;

f. Owner, present use and existing zoning of all abutting property;

g. Existing and proposed streets, easements, rights-of-way and other reservations;

h. Ingress and egress points;

i. Proposed parking areas, materials for same and number of spaces;

j. Existing and proposed buildings;

k. Date, scale of not less than one (1) inch equals one hundred (100) feet, and north point;

l. Limits of established one hundred (100) year floodplain;

m. Major natural features;

n. Required setbacks and areas for landscaping and buffering;

o. Location of existing water, storm and sanitary sewer lines.

(2) The preliminary site plan shall include for review by the appropriate city department, in addition to the items specified for a schematic site plan, the following:

a. Existing and proposed topography;

b. Location of proposed water mains, fire hydrants, pipe sizes, grades and direction of flow;

c. Generalized erosion control measures;

d. Location of proposed utility lines, indicating where they already exist and whether they will be underground;

e. Location of proposed storm and sanitary sewer systems, both surface and subsurface, showing pipe sizes, grade flow and design loads;

f. Vicinity map at a scale no smaller than one (1) inch equals six hundred (600) feet, showing all streets and property within one thousand (1,000) feet of the subject property;

- g. Existing and proposed curb lines and sidewalks;
- h. Location of proposed signs;
- i. Proposed location and materials for disposal of refuse and other solid waste;
- j. Recreation and/or open spaces;
- k. Name and address of person(s) preparing the site plan;
- l. Proposed buildings and structures to include:
  - 1. Distance between buildings;
  - 2. Number of stories;
  - 3. Area in square feet of each floor;
  - 4. Number of dwelling units or guestrooms;
  - 5. Structures above height regulations.
- m. Proposed location of outdoor lighting.

(3) The site plan shall be accompanied by a check payable to the City of Lynchburg in the amount set forth in the fee schedule adopted by city council.

(4) The final site plan shall include, in addition to the items specified for a preliminary site plan, the following:

- a. Name and address of owners of record of all adjacent properties;
- b. Current zoning boundaries, including surrounding areas to a distance of three hundred (300) feet;
- c. Final erosion and sediment control plans;
- d. Location of watercourses, marshes, rock outcroppings, wooded areas and single trees with a diameter of ten (10) inches measured three (3) feet from the base of the trunk;
- e. Location of buildings existing on the tract to be developed and on adjacent tracts within a distance of one hundred (100) feet, indicating whether existing buildings on the tract are to be retained, modified or removed;
- f. Proposed streets and other ingress and egress facilities (indicating curb lines, sidewalk lines and public right-of-way lines). profiles and cross-sections of streets;
- g. Layout of off-street parking;
- h. Proposed location, direction of, power and time of use of outdoor lighting (not required of industrial development);
- i. Proposed planting, including all landscaping and screening, and indicating existing trees to be retained and areas to be left undisturbed (not required of industrial development);
- j. Location, size and design of proposed signs;
- k. Elevations of buildings to be built or altered on site.

(e) Administrative responsibility.

(1) The city planner shall be responsible for checking the site plans for general completeness and compliance with adopted plans or such administrative requirements as may be established prior to routing

copies thereof to the technical review committee. He shall see that all examination and review of the site plans are completed by the approving authorities.

(2) The city planner shall approve or disapprove the site plans in accordance with the technical review committee's recommendations. He shall then return two (2) copies of the site plan, together with modifications, noting thereon any changes that will be required, to the applicant not later than thirty (30) days from the date of submission, except under abnormal circumstances.

(f) Adjustment in approved site plan. After a site plan has been approved by the city planner, minor adjustments of the site plan, which comply with the spirit of this article and other provisions of this chapter with the intent of the technical review committee in their approval of site plans and with the general purpose of the comprehensive plan for development of the area, may be approved by the city planner with concurrence of the technical review committee. Minor adjustment from an approved site plan without the city planner's approval, or any major deviations, shall require the applicant to resubmit a new site plan for consideration.

(g) Waiver. Any requirement of this section may be waived by the planning commission and/or its designee in a specific case where such requirement is found to be unreasonable or unnecessary for review of the proposal and where such waiver will not be adverse to the purpose of this section.

(h) Building and occupancy permits. No building permit shall be issued for a building in an area in which site plan review is required unless the construction proposed by such building permit is in conformance with the approved site plan. No occupancy permit shall be issued in such an area for a use which is not in conformance with the approved site plan.

(i) Appeal. An appeal of any decision made by the city administration concerning site plan review procedure may be made to the planning commission. (Ord. No. O-78-352, 12-12-78; Ord. No. O-84-140, § 1, 6-12-84, eff. 7-1-84; Ord. No. O-88-098, § 1, 5-10-88, eff. 7-1-88; Ord. No. O-97-063, 4-22-97; Ord. No. O-98-124, 6-9-98)

#### **Sec. 35.1- 15. Con di tional use per mits is sued by city coun cil.**

(a) Intent. Many uses of the land have special characteristics which cannot be comprehended within the general regulations of the zoning ordinance or which render them appropriate in certain zoning districts only if special requirements are met. The intent of this conditional use procedure is to provide for the development of these uses under restrictions appropriate for them.

(b) Uses subject to conditional use permits. The uses which shall be subject to the regulations governing conditional use are listed for each zoning district. With the exception of those conditional use permits granted by the board of zoning appeals pursuant to Section 35.1-12, no other permits shall be granted.

(c) Procedure for conditional use permits. When the division of inspections shall determine that a conditional use permit will be required pursuant to this section for a use applied for, the division shall notify the applicant that such a procedure is required and the division of planning shall require the documentation listed in this section.

A petition (application) requesting a conditional use permit pursuant to this section must be submitted to the division of planning by the petitioner a minimum of thirty (30) days prior to the public hearing date for the planning commission. The petition shall include the following documentation prior to scheduling the public hearing:

- (1) Name and address of the petitioner.
- (2) Name and address of the fee simple property owner of record.
- (3) General description of the property for which the conditional use permit is requested (location).
- (4) Existing zoning classification of the property.

(5) General description of the vicinity zoning pattern.

(6) Vicinity land uses.

(7) Purpose of the requested conditional use permit, including the intentions of the petitioner for the use of the property.

The petition shall be accompanied by the following:

(1) A check payable to the City of Lynchburg set forth in the fee schedule adopted by city council.

(2) A map showing the subject property (preferably a copy of the valuation map available from the department of public works, city hall).

(3) Two (2) photographs of each required sign posted on the property (see Section 35.1-19).

(4) An appropriate number of copies of a preliminary site plan indicating the proposed use of the property. The city will duplicate all the above required copies for site plans submitted on paper with a maximum size of eleven (11) inches by seventeen (17) inches.

On receipt of these documents, the division shall forward a copy to the planning commission together with comments and recommendations of appropriate review bodies. The planning commission shall, after a public hearing under the regulations of Section 35.1-19 of the zoning ordinance, review the application and forward recommendations to the city council. The city council shall, after a public hearing as provided for under the regulations of Section 35.1-19 of the zoning ordinance, approve or deny the application in accordance with the regulations of Article X of the zoning ordinance.

(d) Occupancy permit. No occupancy permit shall be issued for any building or lot for which a conditional use permit has been granted unless the building and/or lot improvements shall be in accordance with the said permit, and thereafter no use shall be made of the building or lot which is not in accordance with permits issued for it.

(e) Documentation required. An application for a conditional use permit shall be accompanied by the documentation required under Section 35.1-14(d) for site plan review, plus any additional information determined by the planning commission to be necessary to determine its eligibility under the zoning ordinance.

(f) Conditions of approval. In approving a petition for a conditional use permit city council may impose any conditions which it deems necessary or appropriate.

(g) Requirement of bond or guarantee. In authorizing a conditional use permit, the city may require a bond or guarantee, payable to the City of Lynchburg, in such amount and for such period of time as the city may designate, to ensure that the conditions imposed are being and will continue to be complied with.

(h) Revocation. If the petitioner should fail to comply with the development standards or conditions of an approved conditional use permit, or if the authorized use is determined to create a nuisance in the community, city council may revoke the conditional use permit after conducting a public hearing on the matter.

(i) Time limitations on the validity of a conditional use permit.

(1) If a building permit for construction authorized by a conditional use permit granted under these regulations shall not have been applied for within six (6) months of the granting of such conditional use permit, the conditional use permit so granted shall become void, unless the following appeal procedures are applied for and secured. Prior to the aforesaid six (6) month expiration, a six (6) month extension may be applied for through the city manager's office.

(2) Two (2) such six month extensions may be obtained. A third and final twelve (12) month extension may be requested from city council prior to the expiration of the second six (6) month administrative extension.

(3) If the developer desires to stage construction of the development over a period of time, the master development plan must include a staging plan with a map note explaining the purpose of the staging plan and the time sequence involved in construction of the development. If the city council approves both the master development plan and staging plan, the developer may submit site plans to the technical review committee for review and approval for only those stages to be constructed as outlined in the staging plan. Any development which is anticipated to require more than thirty-six (36) months for completion shall show on the master development plan a staging plan with a map note explaining the staging sequence of the project.

(4) Notwithstanding any other provisions hereof, conditional use permits granted or assigned to any hospital, institution of higher learning or other eleemosynary institution, or any public agency or authority shall be valid for a period of thirty-six (36) months. If a building permit for construction authorized by a conditional use permit granted to such a user has not been applied for within thirty-six (36) months of the grant of such permit, it shall be void; except that upon application filed prior to the expiration of the initial period of validity, a six (6) month extension may be granted by the city manager or his designee. A second and final twelve (12) month extension may be requested from city council if application therefor is filed prior to the expiration of the six (6) month administrative extension. After issuance of the first building permit for construction of any structure or improvement authorized by the conditional use permit, such permit shall remain valid as to future stages of the development approved under the permit, as shown on the master plan, even though further construction does not commence within the time specified in the master plan.

(5) Notwithstanding any other provision of this section, the time periods set forth shall be tolled for any period of time which a conditional use permit granted by the city council is subject to judicial challenge, including all appeals. (Ord. No. O-78-352, 12-12-78; Ord. No. O-79-303, 1, 10-9-79; Ord. No. O-86-198, 1, 8-12-86; Ord. No. O-90-125, 5-8-90; Ord. No. O-92-142, 5-12-92; Ord. No. O-96-229, 8-13-96; Ord. No. O-97-063, 4-22-97; Ord. No. O-98-124, 6-9-98)

**Sec. 35.1- 16. Planned unit development, cluster commercial development, or traditional neighborhood development.**

(a) Intent. Planned unit developments (PUD), cluster commercial developments (CCD), and traditional neighborhood developments (TND) are to be created as a conditional use in all specified districts. The intent of this section is to provide for developments on relatively large tracts of land which involve a variety of uses and/or building types. Such developments can provide economies in construction, maintenance and the provision of services, as well as increased amenity, for the public good, greater preservation of natural conditions and innovations in environmental design.

(b) Procedure for city council action. Specific standards and procedures for PUDs, CCDs, and TNDs are found in Sec. 35.1-42.1 to 35.1-42.8, Sec. 35.1-43, and Sec. 35.1-43.5 to 35.1-43.13 respectively. However, at a minimum the following procedure shall apply. When the division of planning shall receive an application for PUD, CCD, or TND, the division shall ensure that the required documentation is complete. If documentation is not complete, the division shall require such additional information as necessary from the applicant. When documentation is complete, the division of planning shall forward a copy to the planning commission together with comments and recommendations from appropriate review bodies. The planning commission shall, after a public hearing under the regulations of Section 35.1-19 of this ordinance, review the application and forward recommendations to the city council. The city council shall, after a public hearing as provided for under the regulations of Section 35.1-19 of this ordinance, approve or deny the application in accordance with the regulations of Article X of this ordinance. Approval of a planned unit development, cluster commercial development, or traditional neighborhood development shall have the

effect of an official zoning map change to the planned unit development district, the cluster commercial development district, or the traditional neighborhood development district respectively.

(c) Procedure for development permission within a planned unit development district, a cluster commercial development district, or traditional neighborhood development district. Permission for development within any of these districts shall be granted under the regulations of Section 35.1-14 of this ordinance and of their respective ordinance sections: Sec. 35.1-42.1 to 35.1-42.8 for PUDs, Sec. 35.1-43 for CCDs, and Sec. 35.1-43.5 to 35.1-43.13 for TNDs. Application for development permission may be made for a portion of the proposed development or for the entire development, but building permits issued for construction in such developments shall expire one (1) year from the date of issuance unless substantial construction of such development shall have commenced.

(d) Documentation required. The documentation required for an application for a planned unit development, a cluster commercial development, or a traditional neighborhood development shall be that required by Section 35.1-14.

(e) Amendments. Amendments to planned unit developments, cluster commercial developments, or traditional neighborhood developments shall be processed in the same manner as original applications, including hearings and notices.

(f) Building permits. No building permit will be issued in a planned unit development, a cluster commercial development, or a traditional neighborhood development unless the construction proposed therein is in conformance with the approved site development plan. (Ord. No. O-78-352, 12-12-78; Ord. No. O-98-013, 2-10-98)

#### **Sec. 35.1- 17. Amend ments.**

(a) Who may initiate. Any amendment to the text or official zoning map of this ordinance may be initiated by:

- (1) The city council.
- (2) The planning commission; provided, however, that any resolution or motion by the planning commission or city council proposing the rezoning shall state the public necessity, convenience, general welfare or good zoning practice constituting the public purpose of such rezoning.
- (3) Any person directly affected by such an amendment. However, any such applicant not the owner of any property whose zoning district would be changed shall include in his application written permission by each owner of each property so affected.

(b) Procedure for amendments to the zoning ordinance and the official zoning map.

(1) A petition (letter) requesting a zoning amendment must be submitted to the division of planning by the petitioner a minimum of thirty (30) days prior to the public hearing date for the planning commission. The petition shall include the following documentation prior to scheduling the public hearing:

- a. Name and address of petitioner;
- b. Legal description of property to be rezoned;
- c. Metes and bounds description of property to be rezoned;
- d. General description of property to be rezoned (location);
- e. Existing and proposed zoning classifications;
- f. Purpose of proposed change in zone classification, including intentions of petitioner for use of the property.

(2) The petition shall be accompanied by the following:

a. A check payable to the City of Lynchburg in the amount set forth in the fee schedule adopted by city council.

b. A map showing the subject property (preferably a copy of the valuation map available from the department of public works, City Hall).

c. A schematic site plan including the documentation specified in Section 35.1-14 and indicating proposed use of the property (except for a PUD or CCD request, which requires the initial submittal of a preliminary site plan, with final approval of the conditional use permit contingent upon approval of a final site plan).

When a proposed amendment of the zoning ordinance involves a change in the zoning classification of twenty-five (25) or less parcels of land, then, in addition to the advertising as above required, the planning division shall notify all property owners, their agent or the occupant, of all property within two hundred (200) feet of the proposed zone change not less than ten (10) days prior to the public hearing before the planning commission. Notification shall be by certified mail, and the cost of this notification shall be taxed to the applicant, unless waived by the city, at a standard rate as determined by the city council's current fee schedule for each written notice.

If the hearing is continued, notice shall be re-mailed. Cost of any notice required under this section shall be taxed to the applicant.

At the time an application is filed with the division of planning, a sign shall be posted on the property by the applicant notifying interested persons that a rezoning application has been filed; said sign shall be located within one (1) foot of the right-of-way of a public street or road, upon which said business or proposed use fronts. The sign shall be placed on the property at five hundred (500) foot intervals. The city planner may reduce the required number of signs or approve the relocation of signs in those cases for which the petitioner can present sufficient justification to warrant a deviation, provided the spirit and intent of the notice requirements are observed. Grounds for deviation of the requirements may include such items as a parcel of unusual size or shape, a peculiar location, severe topography, or other extraordinary situation or condition of the property that would make the strict application of these requirements unnecessary or impractical. The justification shall document that a reduction in the number or the relocation of signs would not reduce the effectiveness of the public notice. If the property in question has a five hundred (500) foot or less frontage, one (1) sign shall suffice. Where property does not front on an existing right-of-way, said sign shall be placed within the right-of-way of the nearest street or road. The sign shall read as follows:

NOTICE TO REZONE

Name of Applicant or Owner:

Telephone No.:

Address of Property:

Present Zoning:

Proposed Zoning:

Proposed Use of Property:

Additional Information: call Planning Division,  
Department of Community Planning and  
Development—847-1508

72"

Said sign shall be of wood or metal, at least forty-eight (48) inches by seventy-two (72) inches in size and the lettering thereon shall be black letters on a white background and shall be at least three (3) inches in height. The applicant shall notify the division of planning in writing that the sign has been erected and where located.

The sign shall contain no additional advertisement or words other than that which is specified herein. Said sign shall remain posted until final action has been taken by the city council. After final action has been taken by the city council, or the petition has been withdrawn, the sign shall be removed within ten (10) calendar days by the petitioner at his expense. If any sign remains posted longer than this ten (10) day period the petitioner shall be deemed in violation of this ordinance and subject to the penalties as set forth in Section 35.1-20 of this ordinance.

The petitioner or his representative shall be present at the planning commission meeting at which the proposed zone change is to be considered. The planning commission's recommendations shall be submitted within thirty (30) days of the hearing to the city council, which shall, after a public hearing under the regulations of Section 35.1-19 of this ordinance, approve or disapprove the proposed amendment. If, in the judgment of council, consideration should be given to changing a greater or lesser area than that proposed in a petition, council, on its own motion, shall refer to the commission, for report and recommendation, a proposal for changing a greater or lesser area than that contained in the petition. It shall be the duty of the city manager, or any official designated by him, to bring to the attention of council such instances where, in his opinion, a greater or lesser area shall be considered for change than that contained in a specific petition, and the planning commission may also recommend to council that a greater or lesser area be changed, or that the zoning be changed in any other respect differently from what was proposed in the petition.

When the council has rejected a petition to amend, supplement or change these regulations, or the boundaries of any district or classification of any property, it may not be required to consider another petition requesting the same change until at least one (1) year has elapsed, except by the favorable vote of three-fourths of all of the members of city council. No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice as required by Section 35.1-19.

(c) Procedure for comprehensive plan amendments. A proposal for a comprehensive plan amendment can be initiated only by the city council or the planning commission. Such a comprehensive plan amendment shall be submitted first to the planning commission, which shall, after a public hearing under the regulations of Section 35.1-19 of this ordinance, recommend action to the city council. The city council shall hold a public hearing under Section 35.1-19 before taking final action on such amendment; however, the planning commission and the city council hearings may be held jointly.

(d) Affirmative vote. An affirmative vote of at least a majority of all of the members of the city council shall be required to effectuate such change or amendment as regulated by this chapter.

(e) Time of hearing. An application for a zoning amendment shall be submitted at least thirty (30) days before the date of the hearing in order to be considered at the said hearing. Except as specifically authorized by city council, applications for a zoning amendment will be heard by the city council only once a month at the first meeting of the month. Also, except as specifically authorized by the planning commission or city council, zoning applications will be considered to be incomplete and will not be scheduled to be heard by the planning commission or city council until all necessary variances have been obtained from the board of zoning appeals. (Ord. No. O-78-352, 12-12-78; Ord. No. O-80-007, § 1, 1-8-80; Ord. No. O-84-140, § 1, 6-12-84, eff. 7-1-84; Ord. No. O-95-301, 11-14-95; Ord. No. O-98-124, 6-9-98; Ord. No. O-00-023, 2-8-00)

#### **Sec. 35.1- 18. Appeals to the board of zoning appeals and to the circuit court.**

(a) Appeals to the board of zoning appeals. An appeal may be taken to the board of zoning appeals by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the division of inspections for other officer in the administration or enforcement of chapter 11 of title 15.1 of the Code of Virginia, as amended, or of this zoning ordinance.



(b) Requirement for notice of right to appeal. Notwithstanding any other provision of law, any written notice of a violation of the zoning ordinance or written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he or she may have a right to appeal the notice or order within thirty (30) days in accordance with this section, and that the decision shall be final and unappealable if not appealed within said thirty (30) days, and the appeal period shall not commence until such notice is given.

(c) Finality of determinations by the division of inspections or other officer. In no event shall a written order, requirement, decision or determination made by the division of inspections or other administrative officer be subject to change, modification or reversal by the division of inspections or other administrative officer after sixty (60) days shall have elapsed from the date of the written order, requirement, decision or determination, where the person aggrieved has materially changed his or her position in good faith reliance on the action of the division of inspections or other administrative officer, unless it is proved that such written order, requirement, decision or determination was obtained through malfeasance of the division of inspections or other administrative officer or through fraud. The sixty (60) day limitation shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical or other nondiscretionary errors.

(d) Procedure. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing a notice of appeal specifying the grounds thereof with the secretary of the board of zoning appeals and with the division of inspections.

The division of inspections shall forthwith transmit to the board of zoning appeals all the papers constituting the record upon which the action appealed from was taken.

(e) Stays of proceedings appealed from. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the division of inspections certifies to the board of zoning appeals that, by reason of the facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property, in which case, proceedings shall not be stayed otherwise than by a restraining order granted by the board of zoning appeals or by the circuit court, on application and on notice to the division of inspections, and for good cause shown.

(f) Time for hearing of the appeal. The board of zoning appeals shall fix a reasonable time for the hearing of an application of appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within ninety (90) days of the filing of the application of appeal. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The concurring vote of three (3) members shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variance from this ordinance.

(g) Maintenance of minutes of proceedings. The board of zoning appeals shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board of zoning appeals and shall be public records.

(h) Issuance of compulsory process. The chairman of the board of zoning appeals, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

(i) Fees. In order to cover costs incurred by the City of Lynchburg incidental to reviewing, publishing and reporting facts concerning appeals to the board of zoning appeals, a fee of seventy-five dollars (\$75.00) shall be paid to the city collector for each appeal made.

(j) Appeals to the circuit court from actions of the board of zoning appeals. Any person or persons jointly or severally aggrieved by a decision of the board of zoning appeals, or any taxpayer or any officer, department, board or bureau of the City of Lynchburg, may present to the circuit court of the city a petition

specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the board of zoning appeals.

Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board of zoning appeals and on due cause, grant a restraining order.

The board of zoning appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified, but the court may on application, on notice to the board and on due cause shown, grant a restraining order.

If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report such evidence to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. (O-78-352, 12-12-78; Ord. No. O-90-223, 7-10-90, eff. 7-1-90; Ord. No. O-97-063, 4-22-97)

#### **Sec. 35.1-19. Public hearings.**

(a) Where required. A public hearing before the city council, the board of zoning appeals, the board of historic and architectural review, or the planning commission shall be held as specified in this section before approval of:

- (1) A variance;
- (2) A conditional use permit;
- (3) An amendment to the ordinance, the official zoning map, or the comprehensive plan;
- (4) Establishment or amendment of criteria for determination of landmarks, buildings or structures as being architecturally, culturally or historically noteworthy.

Except as specifically authorized by the planning commission or city council, rezoning and conditional use permit petitions will be considered incomplete and will not be scheduled to be heard by the planning commission or city council until all necessary variances have been obtained from the board of zoning appeals.

(b) Notice. Before any hearing required by this ordinance shall be held, a notice of such hearing shall have been published at least once per week for two (2) successive weeks in some newspaper having general circulation in the City of Lynchburg. The term "two (2) successive weeks" as used in this paragraph shall mean that such notice shall be published at least twice in such newspaper with not less than six (6) days elapsing between the first and second publication. Such notice shall specify the time and place of hearing at which persons affected may appear and present their views not less than six (6) nor more than twenty-one (21) days after the second advertisement shall appear in such newspaper. Such notice shall also contain reference to where copies of the proposed plans or amendments may be examined.

If these regulations specify or permit hearing by the board of historic and architectural review, planning commission or board of zoning appeals and the city council, both hearings may be held concurrently. If such a joint hearing is held, public notice as specified above need be given only by the city council or whichever would be the last body to hear the matter.

(1) Zoning amendment. When a proposed amendment of the zoning ordinances involves a change in the zoning classification of twenty-five (25) or less parcels of land, then, in addition to the advertising as above required, written notice shall be given by the planning commission not less than ten (10) days before the hearing to the owner or owners, their agent or the occupant of each parcel involved and of all property within two hundred (200) feet of the affected property, including such properties which lie in an adjoining county. Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books shall be deemed adequate compliance with this requirement. Cost of any notice required under this section shall be taxed to the applicant, unless waived by the city, at a standard rate as determined by the city council's current fee schedule for each written notice.

Posting of a sign giving notice of intent to rezone will be required. If the hearing is continued, notice shall be remailed. Cost of any notice required under this section shall be taxed to the applicant.

(2) Conditional use permits requiring city council action. The following shall apply for each conditional use permit petition requiring city council action:

a. Sign. At the time a petition is filed with the division of planning, a sign shall be posted on the property by the applicant notifying interested persons that a conditional use permit application has been filed; said sign shall be located within one (1) foot of the right-of-way of a public street or road upon which said property or proposed use fronts. The sign shall be placed on the property at five hundred (500) foot intervals. The city planner may reduce the required number of signs or approve the relocation of signs in those cases for which the petitioner can present sufficient justification to warrant a deviation, provided the spirit and intent of the notice requirements are observed. Grounds for deviation of the requirements may include such items as a parcel of unusual size or shape, a peculiar location, severe topography, or other extraordinary situation or condition of the property that would make the strict application of these requirements unnecessary or impractical. The justification shall document that a reduction in the number or relocation of signs would not reduce the effectiveness of the public notice. If the property in question has a five hundred (500) foot or less frontage, one (1) sign shall suffice. Where property does not front on an existing right-of-way, the sign shall be placed within the right-of-way of the nearest street or road. The sign shall read as follows:

48"	<u>NOTICE</u>
	<u>PETITION FOR A CONDITIONAL USE PERMIT</u>
	Name of Applicant or Owner:
	Telephone No:
	Address of Property:
	Present Zoning:
	Proposed Use of Property:
	Additional Information: Call Planning Division, Department of Community Planning and Development at 847-1508.

72"

Said sign shall be of wood or metal, at least forty-eight (48) inches by seventy-two (72) inches in size and the lettering thereon shall be black letters on a white background and shall be at least three (3) inches in

height. The applicant shall notify the division of planning in writing that the sign has been erected and where located.

The sign shall contain no additional advertisement or words other than that which is specified herein. Said sign shall remain posted until final action has been taken by city council, or the petition has been withdrawn, the sign shall be removed within ten (10) calendar days by the petitioner at his expense. If any sign remains posted longer than this ten (10) day period, the petitioner shall be deemed in violation of this ordinance and subject to the penalties as set forth in Section 35.1-20 of this ordinance.

b. Written notice. A written notice shall be given in addition to the advertising required in paragraph (b) of this section by the planning commission not less than ten (10) days before the hearing to property owners within two hundred (200) feet of the subject property informing them of the public hearing and the purpose of the request. Such notice shall be by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books. Cost of any notice required under this section shall be taxed to the applicant, unless waived by the city, at a standard rate as determined by the city council's current fee schedule for each written notice. If the hearing is continued, notice shall be remailed. Cost of any notice required under this section shall be taxed to the applicant.

c. Presence required. The petitioner or his representative shall be present at both the planning commission and the city council meetings at which the conditional use permit petition is to be considered.

(3) Conditional use permits and variances requiring action by the board of zoning appeals. The following shall apply for each conditional use permit petition or variance petition requiring board of zoning appeals action:

a. Sign. At the time a petition for a conditional use permit requiring board of zoning appeal action or a variance is filed with the division of inspections, but not less than twenty-one (21) days prior to the scheduled meeting of the board of zoning appeals, a sign shall be posted on the property by the applicant notifying interested persons that a conditional use permit or variance application has been filed; said sign shall be located within one (1) foot of the right-of-way of a public street or road upon which said property or proposed use fronts. The sign shall be placed on the property at five hundred (500) foot intervals, or at the discretion of the zoning administrator. If the property has a five hundred (500) foot or less frontage, one (1) sign shall suffice. Where property does not front on an existing right-of-way, the sign shall be placed within the right-of-way of the nearest street or road. A sign shall not be required for variances for one and two-family dwellings. The sign shall read as follows:

NOTICE

PETITION TO THE BOARD OF ZONING  
APPEALS FOR A CONDITIONAL USE PERMIT

Name of Applicant or Owner:

Telephone No:

Address of Property:

Present Zoning:

Proposed Use of Property:

Additional Information: Call Inspections Division,  
 Department of Community Planning and Development at 847-1572.

72"

Said sign shall be of wood or metal, at least forty-eight (48) inches by seventy-two (72) inches in size and the lettering thereon shall be black letters on a white background and shall be at least three (3) inches in height. The applicant shall provide the division of inspections two (2) photographs of the sign(s) as located on the subject property. To assure proper notice has been provided, the required photographs must be submitted not less than twenty-one (21) days prior to the scheduled meeting of the board of zoning appeals.

The sign shall contain no additional advertisement or words other than that which is specified herein. Said sign shall remain posted until final action has been taken by the board of zoning appeals, or the petition has been withdrawn, at which time the sign shall be removed within ten (10) calendar days by the petitioner at his expense. If any sign remains posted longer than this ten (10) day period, the petitioner shall be deemed in violation of this ordinance and subject to the penalties as set forth in Section 35.1-20 of this ordinance.

b. Written notice. A written notice shall be given, in addition to the advertising required in paragraph (b) of this section, by the board of zoning appeals not less than ten (10) days before the hearing to property owners within two hundred (200) feet of the subject property informing them of the public hearing and the purpose of the request for a conditional use permit. If a conditional use permit and a variance are on the same petition, the notification process shall be the same as that listed for a conditional use permit. Such notice shall be by registered or certified mail to the last known address of such owner or agent as shown on the current real estate tax assessment books. The cost of any notice required under this section shall be taxed to the applicant, unless waived by the city, at the standard rate as determined by the city council's current fee schedule for each written notice. If the hearing is continued, notice shall be remailed at the expense of the applicant.

c. Presence required. The petitioner or his representative shall be present at the board of zoning appeals meeting at which the conditional use permit is to be considered.

(4) Variances. The following shall apply for each variance petition requiring board of zoning appeals action:

A written notice shall be given, in addition to the advertising required in paragraph (b) of this section, by the board of zoning appeals not less than ten (10) days before the hearing to property owners who are adjacent to the subject property for a variance request informing them of the public hearing and the purpose of the request. If a conditional use permit and a variance are on the same petition, the notification process shall be the same as that listed for a conditional use permit. Such notice shall be by registered mail or certified mail to the last known address of such owner or agent as shown on the current real estate tax assessment books. The cost of any notice required under this section shall be taxed to the applicant, unless waived by the city, at the standard rate as determined by the city council's current fee schedule for each written notice. If the hearing is continued, notice shall be remailed at the expense of the applicant.

b. Presence required. The petitioner or his representative shall be present at the board of zoning appeals meeting at which the variance is to be considered.

(c) Rules of procedure in hearings. Any person affected by the proposed action which is the subject of the hearing may make a statement concerning it. The city council, the board of zoning appeals, the board of historic review and the planning commission shall make other rules as they deem appropriate for the conduct of public hearings. Such rules may cover such subjects as rules of order, time limits on statements, previous notice of intention to speak and other matters.

(d) Records. A record shall be kept of all public hearings required by this section. (Ord. No. O-82-079, § 1, 5-11-82; Ord. No. O-88-009, § 1, 1-12-88; Ord. No. O-93-122, 5-11-93; Ord. No. O-00-023, 2-8-00; Ord. No. O-00-125, 6-13-00)

### **Sec. 35.1- 20. Violations and penalties.**

(a) Violations and penalties. Any person who violates any provision of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction by the judge of the general district court for the City of

Lynchburg, shall be fined not less than ten dollars (\$10.00). nor more than one thousand dollars (\$1,000.00) for each offense, the amount of such fine to be determined by the courts. Each day that the offense continues shall be a separate offense.

(b) Prevention of illegal proceedings. In case any building or structure is erected, constructed, altered, repaired or converted or any building, structure or land is used in violation of this ordinance, the proper authorities of the city, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair or conversion, or restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

When a building permit has been issued and the construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of the zoning ordinance, by suit filed within fifteen (15) days after the start of construction by a person who had no actual notice of the permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the board of zoning appeals. (Ord. No. O-78-352, 12-12-78)

## **ARTICLE V. GENERAL REGULATIONS**

### **Sec. 35.1- 21. Application of regulations.**

(a) No lot, building or structure shall hereafter be used and no building or structure or part thereof shall be constructed, erected, raised, reconstructed, extended, enlarged or altered except in conformity with the regulations prescribed by this ordinance and, unless otherwise specifically provided, except where listed in each district as a use permitted by right, as a permitted accessory use or as a use permitted by conditional use permit. A use that is not specifically permitted in a district shall not be permitted, even if such use is not specifically listed as a prohibited use.

(b) Nothing in this ordinance shall prevent the strengthening or restoration to a safe or lawful condition of any part of any building or structure declared unsafe or unlawful by a duly authorized city official. (Ord. No. O-88-323, 12-13-88; Ord. No. O-92-142, 5-12-92)

### **Sec. 35.1- 22. Buildings, uses and lots.**

(a) Building lot required. Every building or structure hereafter erected shall be located on a lot as herein defined. Where more than one (1) building is erected on a single lot, open spaces or courts shall be provided between buildings as provided herein.

(b) Street frontage required. No permit shall be issued for any land use or structure unless the lot on which such land use is to be established or such structure is to be built has frontage providing access on at least one (1) dedicated, improved street extending across the entire front of the lot where right-of-way extends on the property line with at least twenty (20) feet of pavement with fifty (50) feet of right-of-way, or unless the lot is an existing lot of record on 9/12/89 and has a perpetual unobstructed easement of access at least thirty (30) feet wide to such a street to serve one (1) single-family dwelling or duplex residence. This requirement may be waived by the city council in the case of planned unit developments, cluster commercial developments, traditional neighborhood developments, and townhouse lots for sale complexes where adequate public and private access is provided to such land use or structure.

(c) Reduced street frontage requirements. A permit may be issued for a land use or structure on a lot with less than the required street frontage if:

- (1) The lot fronts on a cul-de-sac, in which case the minimum street frontage shall be thirty (30) feet; or
- (2) The lot is a flag lot meeting the requirements of Section 24.1-28.1 Flat lots.

(d) Yard and open space. No yard or open space required or provided about any building on one (1) lot for the purpose of complying with the provisions of this ordinance shall be considered as providing a yard or open space for a building on any other lot.

Where more than one (1) building is erected on a lot, an open space or court shall be provided between the buildings. Such open space shall be equal in width to twice the width of a side yard required for the district in which the buildings are located. No dwelling, however, shall be erected in the rear of another building on the same interior lot.

(e) Reduction or subdivision of lots. No lot shall be subdivided or reduced in area in such a way that existing lots or structures are brought into nonconformance with the regulations of this ordinance.

(f) Lots under water or within the one hundred (100) year floodplains. No more than ten percent (10%) of the minimum area requirements of a lot, or the area used to calculate floor area ratios or permitted number of dwelling units, may be fulfilled by land which is under water, in marshland or in the one hundred (100) year floodplain as determined by the department of public works, City of Lynchburg.

(g) New buildings on lots less than the required minimum area. A permit may be issued for the erection of a building for a permitted use on a lot existing before the adoption of this ordinance, notwithstanding that the area or dimensions of such lot are less than that required for the district in which such lot lies, providing:

(1) That no use other than a single-family dwelling will be permitted;

(2) That all yard setbacks and other requirements which are in effect at the time of the obtaining of the building permit are complied with; and

(3) That the owner of such a lot did not own other lots contiguous thereto at the time of the adoption of this ordinance. If the latter is the case, such lot, or so much thereof as may be necessary, shall be combined with the first named lot to make one (1) or more conforming lots, whereupon a permit may be issued, but only for such combined lots. Where the required area or dimensions of lots are changed by an amendment of this zoning ordinance, any legal lot existing at that date, and made nonconforming by such amendment, may be built upon within the limits of the two (2) conditions mentioned above in this paragraph.

(h) Parts of lot not counted toward area requirements. For any lot created by subdivision subsequent to adoption of this ordinance, no part of that lot less in width than one-third (1/3rd) the minimum requirement for the district in which it is located shall be counted as part of the required minimum lot area.

(i) Minimum dwelling unit size. See city "housing standards ordinance" of the city code.

(j) County boundary lines. In no case will a permit be issued to build a structure which would be split by a county boundary line. (Ord. No. O-78-352, 12-12-78; Ord. No. O-89-248, § 1, 9-12-89; Ord. No. O-98-013, 2-10-98)

### **Sec. 35.1-23. Supplementary regulations (building projections, set backs, etc.).**

(a) Terraces. A paved terrace shall not be considered to be a building or structure in determination of yard requirements of lot coverage; provided, however, that such terrace is without roof, awnings, screens, walls, parapets or other forms of enclosure and is not more than three (3) feet above grade. Such terrace, however, may have a guard railing, wall or fence not over four (4) feet high, and shall not project into any yard to a point closer than five (5) feet from any lot line.

(b) Porches. Uncovered porches, decks, or covered but not enclosed porches and decks, may project not more than ten (10) feet beyond the front or rear walls of a building into a required front or rear yard. An exception is on the street side of corner lots, in which case they may project not more than ten (10) feet beyond the side walls of a building into a required side yard, provided the side yard has a width equal to or exceeding the depth of the required front yards on the side street. Any two (2) story or enclosed porch, or





one having a roof capable of being enclosed, shall be considered a part of the building in the determination of the size of yard or amount of lot coverage.

(c) Projecting horizontal architectural features. Architectural features, such as windowsills, belt courses, chimneys, cornices, eaves or bay windows, may project not more than three (3) feet into any required yard, but not closer than five (5) feet to any lot line. The sum of any bay window projections on any wall shall not exceed one-fourth (1/4th) of the length of said wall.

(d) Projecting features above the roof line. The height limitations of the zoning ordinance shall not apply to flag poles, church spires, belfries, cupolas and domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, bulkheads or similar features, radio and television antennas for the use of residents of dwellings in apartments, and necessary mechanical appurtenances usually carried above the roof level. Such a feature, however, shall be erected only to a height necessary to accomplish the purpose it is intended to serve, but in no case more than fifteen (15) feet above its lowest point of contact with the roof. The total area covered by such features shall not exceed in cross-sectional area fifteen (15) per cent of the area of the section of roof upon which they are located. Such features as water tanks, cooling towers and bulkheads shall be enclosed within walls of material and designed in harmony with the main walls of the building on which they are located.

(e) Fire escapes. Open fire escapes may extend into any required yard not more than five (5) feet; provided, however, that such fire escapes shall not be closer than five (5) feet at any point to any lot line.

(f) Parapet walls. A parapet wall may extend not more than five (5) feet above the roof of the building on which it is located or five (5) feet above the height limit for the district in which it is located.

(g) Fences and walls. The yard requirements of the zoning ordinance shall not be deemed to prohibit any otherwise lawful fence or wall if each fence and/or wall does not exceed four (4) feet in height in front yards and eight (8) feet in height in side and rear yards in residential districts or ten (10) feet in other districts and if it does not conflict with standards in this section except on a corner lot. On a corner lot, no fence and/or wall shall exceed four (4) feet in height in the required side or rear yard abutting a street when a front yard is required for that block of the side street.

(h) Corner lots. On a corner lot the required side yard abutting a street shall be at least equal to a required front yard for that street. A rear yard shall be provided on each corner lot. The division of inspections shall designate which yard is the rear yard.

(i) Interior lots with double frontage. Interior lots having a frontage on two (2) streets shall have a front yard on both streets as provided herein, except where all lots are designed or designated to face a given street or as may be established by existing dwellings, all of which face the same street, in which cases rear yard requirements may be applied to the street on which the dwellings do not face.

(j) Visibility at intersections. On any corner lot on a dedicated street, no building, fence, wall, hedge or other structure or planting more than three (3) feet in height other than posts, columns or trees separated by not less than six (6) feet from each other, shall be erected, placed or maintained within the triangular area formed by the intersecting curb or edge of pavement lines and a straight line joining points of said lines fifty (50) feet from such intersection. The height of three (3) feet shall be measured above the road surface at the nearest edge of the pavement. This paragraph shall not apply to existing trees provided that no branches are located closer than six (6) feet to the ground.

(k) Future street widening. On any street where a street widening plan designating future right-of-way lines has been officially adopted, the yards required by the zoning ordinance shall be measured from such lines rather than the existing street lines; and where no yard is otherwise required, a yard is hereby required extending back to the future right-of-way line.

(l) Limited access highway. On any limited access highway (including ramps) there shall be provided a yard or setback line of fifty (50) feet from the right-of-way line; and no building, sign, billboard or structure of any type shall be located or erected nearer than fifty (50) feet to such right-of-way line.

(m) Exception for existing alignment of building. Where there are existing buildings in a block, the required front yard shall be the same depth as the average established for such existing building, provided that no front yard shall be required to exceed sixty (60) feet in depth, and further provided that when a setback line is shown on a subdivision plat recorded after the effective date of this section, no front yard shall be required to exceed the setback line on the recorded plat.

(n) Courts. The least horizontal dimension of any court, at any level, shall not be less than the height of any vertical wall forming part of such court, but not less than twenty (20) feet in any case.

(o) Increased side yard width. Where a structure exceeds fifty (50) feet in length along a side yard, the required side yard shall be increased one (1) foot in width for each ten (10) feet of additional building length or fraction thereof.

(p) Private recreational facilities. Private recreational facilities such as swimming pools, tennis courts and basketball courts permitted as accessory uses located on residentially zoned land, shall not be located in any front yard and shall have the following setbacks:

(1) If accessory to a multifamily use, the edge of the facility shall be located not less than ten (10) feet from any lot line.

(2) In the event that such facility is located less than fifty (50) feet from any lot line, it shall be screened by a continuous fence at least four (4) feet in height, supplemented with a strip of densely planted trees or shrubs at least four (4) feet high at the time of planting along such lot line adjacent to such facility.

(q) Industrial districts adjacent to residential districts. In all instances where an industrial district is adjacent to a residential district, there shall be established in the industrial district a screened yard between the two (2) districts.

When an industrial district and a residential district abut, there shall be required a one-hundred (100) foot setback and a vegetative buffer at least four (4) feet high and ten (10) feet wide at the lot line.

(r) Commercial districts adjacent to residential districts. In all instances where a commercial district is adjacent to a residential district, there shall be established in the commercial district a screened yard between the two (2) districts. When a commercial district and a residential district abut, there shall be required a fifty (50) foot setback and a vegetative buffer at least four (4) feet in height at the time of planting and at least ten (10) feet in width at maturity.

(s) Multifamily residential districts adjacent to single-family or two-family residential districts. In all instances where a multifamily district is adjacent to a single-family or two-family residential district, there shall be established in the multifamily district a screened yard between the two (2) districts. When a multifamily district and a single-family or two-family district abut, there shall be required a fifty (50) foot setback and a vegetative buffer at least four (4) feet in height at the time of planting and at least ten (10) feet in width at maturity.

(t) Parking lot landscaping. All parking lots shall landscape an area equivalent to at least five (5) per cent of the total area of the parking lot. The landscaping material shall be at least four (4) feet in height at the time of planting and at least five (5) feet in width at maturity. The location of such landscaping shall be on the property line of the street on which the property fronts or in such location as is approved by the city.

(u) Planting material for buffering.

(1) All planting material to be used as a buffer shall be at least four (4) feet in height at the time of planting and a species of live evergreen as approved by the parks and beautification division of the city as being appropriate for screening purposes.

(2) The arrangement and spacing of such planting material shall be provided in such a manner as to effectively screen the activities of the subject lot, as determined by the division of inspections.

(3) All such planting specifications shall be filed with the approved plan for the use of the lot.

(4) To assure that required planting shall be properly maintained throughout the continuance of the use of the lot, the city may require a bond or guarantee, payable to the City of Lynchburg, in such amount and for such period of time as the city may designate.

(v) Dedicated street as portion of required buffer. When a dedicated street separates two (2) districts requiring a screened buffer and an additional setback, one fourth (1/4th) of the width of the dedicated street may be used in calculating the additional required setback.

(w) Vehicular access. Vehicular access points to all uses shall conform to the "Standard Entrance Policy" of the city.

(x) A driveway on a residential flag lot, as defined in Section 24.1-5. Words and terms, shall be located a minimum of five (5) feet from all lot lines, unless approval has been obtained for a shared driveway with one (1) of the adjacent lots.

(y) Inaccessibility of public services. In order to protect the health, safety, morals and general welfare of the public the city may restrict or deny a rezoning request due to the inaccessibility of water and/or sewer lines.

(z) Special permit for temporary outdoor promotional attractions. Temporary outdoor promotional attractions incident to a shopping center or other business establishment, such as auto, boat or home shows, pony and hay rides, acrobatic acts and the like, may be permitted by special permit subject in each case to approval by the city manager or his duly designated official and to the following conditions:

(1) Such a permit shall be issued only for use within the B-3, B-4 or B-5 districts.

(2) A permit for any such attraction shall not be issued for a longer period than fifteen (15) days, but may be renewed by the city manager or his duly designated official with or without modification; or may be revoked.

(3) A charge may be made for admission to or use of any such attraction.

(4) No such attraction shall be located within less than one hundred fifty (150) feet of the nearest lot line of any adjacent dwelling.

(5) Lights, music, amplifiers and other noise shall be controlled so as not to be a nuisance to adjacent residents.

(6) The hours of operation shall not extend beyond the normal business hours of the business establishments to which such attractions are incident.

(7) Any other conditions or requirements in each case that may be deemed necessary by the city manager or his duly designated official to protect the peace, health, safety, morals and welfare of adjacent residents and the general public.

(8) In the event the city manager or his duly designated official refuses to issue a permit or revokes a permit previously issued for said promotional attractions, the applicant for such a permit shall have the right of appeal to the city council to review the action of the city manager or his duly designated official. The decision of the city council with regard to such permit shall be final. (Ord. No. O-78-352, 12-12-78;

Ord. No. O-81-063, § 1, 4-14-81; Ord. No. O-85-140, § 1, 6-11-85; Ord. No. O-89-248, § 1, 9-12-89; Ord. No. O-90-048, 2-13-90)

**Sec. 35.1-24. Accessory buildings and uses.**

(a) Accessory building attached to main building. If any accessory building is attached to a main building, including attachment by means of a breezeway or a roofed passageway, it shall comply in all respects to the requirements of this ordinance applicable to the main building. All other accessory buildings shall comply to the requirements for such buildings in the schedule of regulations.

(b) Dwellings in accessory buildings. Any accessory building on the same lot with a main residence building shall not be used for residential purposes except for guests or for domestic employees (who are employed on the premises) by the owners or tenants of the main building, and neither shall such a building contain a kitchen or kitchen facilities.

(c) Accessory use. Accessory buildings shall be located in rear yards only and may occupy not more than thirty per cent (30%) of the required rear yard. On through lots, accessory buildings shall be prohibited in all yards—front, side and rear. On interior lots, accessory buildings may be erected on the lot line; provided, the fire resistive requirements of the building code are complied with. On corner lots, accessory buildings shall be located as far as possible from the side street line but not nearer to such street line than the setback line required in the district, and where such corner lot requires a side yard abutting the side street, the accessory building shall be located a distance from the rear lot line equal to the required side yard dimension for the abutting lot to the rear of the main building on the corner lot. (Ord. No. O-78-352, 12-12-78)

**Sec. 35.1-25. Off-street parking and loading.**

(a) General. All structures and land uses hereafter enlarged, erected or extended shall be provided with the amount of off-street parking and loading space required by the terms of this section.

(b) Existing structures and uses. Structures and land uses in existence on the date of enactment of this ordinance, or structures and uses for which building permits have been approved on the said date, shall not be subject to the parking and loading requirements set forth in this section. However, any parking and loading facilities now existing to serve such structures or uses shall not, in the future, be reduced except where they exceed such requirements, in which case they shall not be reduced below such requirements.

(c) Location of off-street parking facilities. Off-street parking facilities required by this article shall be provided on the same lot with the structure or land use served or on a lot adjacent to the said lot, except as specified in Section 35.1-25(i). Except for one (1) family and duplex residential parking facilities, no off-street parking facilities shall be located within twenty (20) feet of any residential lot line, nor shall they be located in any required front yard.

(d) Parking specifications. Each parking space and the necessary access aisles shall have at least the minimum dimensions listed in the chart below, depending on the parking angle and the direction of the traffic flow. Parking and loading areas shall be graded, surfaced-treated or paved, marked and maintained to the satisfaction of the department of public works. Parking areas having ten (10) or less parking spaces may be gravel and shall require marking (tire stops). Parking areas having more than ten (10) spaces may also be gravel if the superintendent of inspections and the traffic engineer determine that the use of gravel is appropriate. Decisions on whether or not the use of gravel for a larger parking area is appropriate will include, but not be limited to, the following factors: its volume of traffic, its frequency of use, its size, the type of land use requiring the parking, the topography, and the control measures needed for stormwater runoff. Landscaping shall be installed and maintained for gravel parking and vehicular areas to the same standards required for paved parking and vehicular areas. The future conversion of gravel parking areas to surface-treatment or pavement shall be subject to the provisions of the city's stormwater and erosion and sediment control ordinance.

## MINIMUM PARKING DIMENSIONS (FT.)

Parking Angle	Stall Width	Stall Depth	Stall Length	Cross Aisle Width (One-Way)	Cross Aisle Width (Two-Way)
45°	9	19	25	12	20
60°	9	20	22	16	20
75°	9	20	20	20	20
90°	9	18	18	24	24

(e) Schedule of parking requirements. The following are minimum requirements for all districts except B-4 and B-6 and may be increased as specified in the standards for conditional uses in Article X:

+ Use	+ Minimum spaces
(1) Residential uses	
(except multifamily housing limited to the elderly)	two and five tenths (2.5) per dwelling unit
Multifamily housing limited to elderly occupants	one (1) for each two (2) units; provided that sufficient space suitable for parking shall be reserved, free of buildings, to provide the number of spaces which would otherwise be required in the event such building should thereafter fail to be a multifamily dwelling for the elderly
Uses supplementary to residential uses, extra spaces as follows:	
roomers and boarders	one (1) per boarder
professional offices	four (4) per professional person maintaining office hours
tourist homes or bed and breakfast	one (1) for each room used for this purpose
home occupation	one (1)
(2) Institutional uses	
Places of worship	one (1) for each three (3) fixed seats included; benches shall be deemed to have capacity of one (1) person per twenty (20) linear inches of bench
Arenas, auditoriums, and stadiums	one (1) per each (three) seats
Art galleries, libraries, museums	one (1) per each three hundred (300) square feet of floor space, exclusive of utility areas
Clubs, lodges and other recreational facilities	one (1) per each two (2) persons of the rated capacity of buildings

+ Use	+ Minimum spaces
Schools, public and private, elementary and junior high	two (2) per three (3) teachers and other employees
High schools	two (2) per three (3) teachers and employees plus one (1) per ten (10) students
Colleges	two (2) per three (3) teachers and employees plus one (1) per two and five tenths (2.5) students
Group homes	Two (2) per home plus one (1) per eight (8) residents plus one (1) per three (3) staff members
Hospitals and Sanitoriums	one (1) per three (3) patient beds, plus one (1) per resident doctor, plus one (1) per three (3) other employees
Nursing homes	one (1) per three (3) beds, plus one (1) per resident doctor, plus one (1) per each three (3) staff members
Other institutional and special uses and facilities	as determined by the planning commission or by conditional use standards
(3) Commercial uses	
Offices for business, banking, professional and similar uses	one (1) per each three hundred (300) square feet of gross floor area, exclusive of utility area
Retail sales and services	one (1) per each three hundred (300) square feet of gross floor area plus one (1) for each three (3) employees on duty at any one time
Commercial and trade schools	one (1) per five (5) students and one (1) per two (2) employees
Hotels and motels	one (1) per guest room plus one (1) for each three (3) employees on duty at any one time
Mortuaries and funeral parlors	one (1) per fifty (50) square feet of floor space
Restaurants, night clubs, taverns, places of assembly (including theaters)	one (1) per three (3) fixed seats or one (1) per one hundred (100) square feet of usable floor space plus one (1) for each three (3) employees on duty at any one time
Bowling alleys	four (4) per alley
Automobile service stations	two (2) per three (3) employees on main shift plus two (2) for each service bay
All others	one (1) per two hundred (200) square feet of gross floor area

+ Use	+ Minimum spaces
(4) Industrial uses	
Manufacturing, wholesale and other industrial uses	two (2) per three (3) employees on main shift

(5) Other uses

For uses which are not covered above or in Article X of this ordinance, minimum parking requirements shall be determined by the planning commission.

(f) Two (2) or more uses on the same lot. Where two (2) or more uses occur on the same lot, the minimum parking requirement shall be the sum of the requirements for each individual use calculated separately; except that where the planning commission shall find that by reason of noncoinciding hours of parking use, less than the sum of the several requirements is appropriate, it may reduce the minimum requirements by a suitable amount, but not to exceed a total reduction of twenty (20) per cent.

(g) Special conditions in the central business district and the riverfront business district. In the central business district and the riverfront business district the minimum off-street parking requirements shall not apply because of the impracticability of providing such parking on the basis of individual uses in highly congested areas. However, developers of new buildings will be strongly encouraged to provide parking up to the minimum cited in these regulations.

(h) Off-street loading berth requirements. Off-street loading and unloading berths, as defined in this ordinance and located on the same lot with the use to be served, except as provided in Subsection (i) below, shall be provided as follows:

(1) For retail and service business establishments, one (1) berth for the first four thousand (4,000) square feet of floor area or portion thereof used for business purposes, and one (1) additional berth for each ten thousand (10,000) square feet or portion thereof in excess of the first four thousand (4,000) square feet.

(2) For business, professional, financial and other office buildings, one (1) berth for each one hundred thousand (100,000) square feet of gross floor space.

(3) For manufacturing, wholesale business, storage, warehouses and similar activities, one (1) berth for the first four thousand (4,000) square feet of floor area or portion thereof used for such purposes and one (1) additional berth for each ten thousand (10,000) square feet or portion thereof in excess of the first four thousand (4,000) square feet.

(4) For uses not listed above and for which standards are not listed in Article X, the planning commission shall determine the appropriate minimum requirements.

(i) Joint use of loading berths. In B-3 and B-4 business districts several business establishments within one (1) block may provide off-street loading berths for joint use, provided that the design and location of such berths is satisfactory to the Director of the department of public works. The minimum requirements for such berths shall be figured on the basis of the total floor space of all the establishments served. (Ord. No. O-78-352, 12-12-78; Ord. No. O-82-023, § 1, 2-9-82; Ord. No. O-85-140, § 1, 6-11-85; Ord. No. O-89-201, § 1, 7-11-89; Ord. No. O-94-069, 4-12-94; Ord. No. O-96-318, 12-10-96)

**Sec. 35.1-26. Signs.**

The intent of this section is, among other things, to: preserve the residential character of residential neighborhoods; preserve order and cleanliness; avoid the appearance of clutter; protect property values; avoid litter and the growth of weeds around signs; reduce the traffic hazard caused by distractions to motorists and impairment of sight lines; ensure that the city remains an attractive place to live and work; reduce administrative burdens; and protect the health, safety, welfare, morals, convenience, and comfort of the public.

Regulations for signs permitted in each district are specifically listed in the district regulations. Directional signs for temporary church activities, garden shows, antique shows, and other similar temporary activities may be erected along streets only by written permission of the City Manager or his duly authorized representative. Where such signs are erected on poles owned by a utility company, the permission of such company shall also be obtained.

For the purposes of this section, other provisions notwithstanding, awning signs shall be allowed and treated as wall signs. The maximum permissible area for awning signs shall be subject to, and calculated with, the maximum permissible wall sign area for the specific district in which such signs are located. These provisions are applicable to awning signs regardless of the • material.

In the B-1, Limited Business Districts, through the I-3, Heavy Industrial Districts, one (1) identification flag, not exceeding twenty-four (24) square feet in area and containing only the name and/or logo of the business located on the premises, may be erected on the property, provided the flag is located on a freestanding flag pole. The area shall be calculated separately from the maximum permissible ground sign area for the district in which the flag is located. The maximum permissible height for identification flags shall be twenty-four (24) feet.

(a) Discontinued business. If a business advertised by any sign is discontinued, such sign shall be removed, at the expense of the owner within ten (10) days after such discontinuance of business, and shall not be erected elsewhere in the City, except in conformity with the provisions of this article.

(b) Existing signs. Any existing sign or advertising structure legally erected and maintained, which is nonconforming to the provisions of this article, may continue in its nonconforming status. Any such nonconforming sign which may hereafter be removed for any purpose shall, if re-erected, conform to the provisions of this article, and any such nonconforming sign requiring repairs in the amount of fifty (50) percent of its replacement value shall be required to conform with all provisions of this ordinance.

(c) Certificate of insurance.

(1) As a condition of permission to erect, construct, or maintain over any public street any sign requiring a permit, the property owner, sign owner, and sign user of any such sign shall all be and remain liable for all damages and injuries caused to persons or property by reason of the construction, maintenance, use, removal, or repair of such sign or signs, and shall indemnify and save harmless the City against all damages it may sustain by reason of the existence of such sign as hereinafter provided.

(2) Every person applying for a permit to erect a sign over any public street shall furnish the Division of Inspections a certificate of insurance, on forms furnished by said division for the purpose, certifying that the owner or tenant of the building or premises on which the sign is to be erected has liability insurance for bodily injuries covering said sign in the amount of fifty thousand dollars (\$50,000.00) for each person and one hundred thousand dollars (\$100,000.00) for each accident. The certificate of insurance shall show the name of the insurance company, name of insured, address of insured, location of insured premises, insurance policy number, date insurance policy issued, expiration date of insurance policy, limits of policy, type of insurance, and a clause providing that in case of cancellation of insurance policy the City shall be given ten (10) days' notice prior to such cancellation.

(3) In case the ownership of a sign is changed, the new owner shall furnish a certificate of insurance as hereinafter provided.

(4) Any person lawfully maintaining a sign over any public street at the time of the enactment of this code shall, within thirty (30) days after the enactment of this code, comply with all the provisions as set out in this section. This paragraph, however, shall not apply to any person who has heretofore insured the City against liability due to the existence of any electric sign by an endorsement or rider to his own public liability and property damage insurance policy, until such time as such policy, or the rider thereto, expires or is otherwise terminated.



(5) The requirements of this section shall be in addition to all other provisions and requirements contained in the ordinances of the City relating to signs over public property.

(6) Any persons violating any of the provisions of this section shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense, and each day's maintenance or existence of any sign in violation of this section shall constitute a separate offense.

(d) Temporary signs.

(1) Signs of a temporary nature made of cloth, paper, or similar material may be erected, provided, the number of such signs that may be displayed at any one (1) time is limited to one (1) sign on each street on which the property abuts, and provided such sign does not exceed thirty-two (32) square feet in area and is not placed nearer to a street line than eight (8) feet, except wall signs may project not more than three (3) inches from any building wall. Such signs, except real estate signs, shall be restricted to on-premises signs erected by the business occupant of the lot and the advertising matter shall apply only to the nature of the business occupying the lot on which the sign is erected. Temporary signs advertising real estate may be erected on the property to be sold or rented but not on any other property; these signs shall be removed immediately after any sale has been completed. Such real estate signs may be erected without notice to the Division of Inspections. (Refer to specific zones for additional regulations concerning signs.)

(2) A permit for a temporary sign is required from the division of inspections. No permit for a temporary sign shall be issued until applicable permit fees have been paid to the city collector, and no such permit shall be issued for a period to exceed sixty (60) days. Permits for temporary signs shall not be issued for any location during a period of thirty (30) days after the expiration date of a permit for a temporary sign previously issued for the same location, unless the business operated at the location has changed ownership.

(e) Political campaign signs. A campaign sign is a temporary sign promoting the candidacy of a person running for a governmental office or promoting a position on an issue to be voted on at a governmental election. Within any district, a political campaign sign may be erected on a lot, provided that such sign: is erected only upon approval of the property owner, may not exceed six (6) square feet in area or four (4) feet in height, may not be located closer than eight (8) feet to a street line, must be at least five (5) feet from any property line, is at least forty (40) feet away from any other such sign, and does not exceed two (2) political campaign signs per lot. If the size of a lot does not permit signs to be placed forty (40) feet apart, the signs shall be placed as far apart as possible to allow not more than two (2) signs on a lot. A political campaign sign may be displayed on any zoning lot fourteen (14) days before an election, and such sign shall be removed within three (3) days after the election. The removal of such signs shall be the responsibility of the property owner on whose lot the sign is displayed.

A political campaign sign may be indirectly illuminated, provided the source of illumination is not visible and no fluorescent paint or other preparation is used for high reflection. Only white illumination shall be used, and no flashing (on-and-off) sign, nor any sign simulating movement, shall be permitted. The hours that the signs can be lighted shall be determined by the Superintendent of Inspections so that it does not interfere with any abutting residential properties. Political campaign signs are permitted in addition to non-commercial opinion signs.

(f) Non-commercial opinion signs. A non-commercial opinion sign is a sign which does not advertise products, goods, businesses, or services, and which expresses an opinion or other point of view. Such a sign cannot be illuminated by an interior or exterior light source. One non-commercial opinion sign may be displayed on any lot that is zoned and used residentially. Such signs are permitted on private property only, may be erected only upon approval of the property owner, may not exceed six (6) square feet in area or four (4) feet in height, may not be located closer than eight (8) feet to a street line, and must be at least five (5) feet from any property line.

(g) Portable signs. All portable signs shall be constructed entirely of metal or other approved materials as specified in the City's adopted BOCA Basic Building Code. A portable sign is hereby defined as any sign which is movable, not permanently attached to the ground, a structure or any other signs and not an

integral part of a building to which it is accessory. Portable signs are permitted only in B-3 community business, B-5 general business, and I-2 industrial districts, subject to the following standards:

(1) One (1) portable sign may be located on the property occupied by a permitted use to identify only the person, establishment, the principal product and/or service available on the premises. In the event there is more than one (1) permitted use on the premises, only one (1) portable sign can be used for this property as specified herein.

(2) All portable signs must be located at least one thousand (1,000) feet apart and at least ten (10) feet from any property lines.

(3) A portable sign cannot be located in any required off-street parking space, driveway, alley or fire lane.

(4) The portable sign may be illuminated provided that such lights are enclosed in the sign, shaded or indirect so that they will in no way interfere with the vision of motorists or with neighboring residents. Only white illumination shall be used, and no flashing (on-and-off) sign, nor any sign simulating movement, shall be permitted. No fluorescent paint or other preparation can be used for high reflection.

(5) A portable sign shall not exceed twenty five (25) square feet in total area.

(6) A permit to use this type of portable sign is required from the division of inspections. No permit for a portable sign shall be issued until applicable permit fees have been paid to the city collector, and such permit shall be issued for a period not to exceed thirty (30) days. Permits for use of any portable sign shall not be issued for any property during a period of twelve (12) months after the expiration date of a permit for a portable sign previously issued for the same location.

(h) Compliance with electrical code. All illuminated signs must comply with the city's electrical code. (Ord. No. O-82-078, § 1, 5-11-82; Ord. No. O-93-320, 12-14-93; Ord. No. O-95-081, 4-11-95; Ord. No. O-96-073, 4-9-96)

#### **Sec. 35.1-26.1. Billboards.**

All billboards constructed or erected after the enactment of this ordinance shall conform to the following requirements:

1. No person shall cause to be constructed or erected in a B-5 district any billboard except a billboard that replaces a then existing billboard in a B-5 district. Any billboard existing in a B-5 district at the time of enactment of this ordinance, and any replacements and any billboard existing in an I-2 or I-3 district at the time of enactment of this ordinance shall not be considered as a nonconforming billboard provided said billboard is in compliance with this ordinance. All other billboards existing at the time of enactment of this ordinance shall be deemed nonconforming billboards.

2. Any billboard located within three hundred (300) feet of the center line of, and readily readable from, any limited access highway shall be located not nearer than five hundred (500) feet to an exit ramp. The required distance shall be measured along the center line of the highway, in the direction in which traffic is approaching the exit ramp, beginning at the nearest intersecting point of a line drawn perpendicular to the said center line through the beginning of the nearest exit ramp with said highway. No billboard shall be located in such a manner as to obstruct an existing advertising structure viewed from a point on the main traveled portion of said highway at a distance of three hundred (300) feet approaching said sign.

3. Billboards shall be located no less than five hundred (500) feet apart.

4. The spacing provisions cited above shall not apply to billboards separated by buildings or other obstructions in such a manner that only one (1) sign located within the required spacing distance is visible from the road at any one (1) time.

5. Except on property located adjacent to limited access highways, no billboard shall be located within one hundred fifty (150) feet of any property zoned for or used as a residential development, church, playground, school or public park.
6. The area of the advertising surfaces erected on any billboard shall not exceed six hundred seventy-five (675) square feet, and no billboard(s) shall be double-decked, multi-decked, stacked or side-by-side structures with more than one (1) surface area facing the same direction.
7. When any billboard is lighted, such lights shall be enclosed in the sign, shaded or indirect, so that they will in no way interfere with the vision of motorists or with neighboring residents. Only white illumination shall be used, and no flashing (on-and-off) sign, nor any sign simulating movement, shall be permitted, except signs indicating time and/or temperature or similar signs erected for the convenience of the public. No fluorescent paint or other preparation can be used for high reflection.
8. The maximum height of a billboard shall be forty (40) feet from the grade of the thoroughfare to which the sign is oriented or from the base of the structure, whichever is higher.
9. All billboards shall be maintained by the owner in sound structural condition, to a standard approved by the superintendent of inspections. In the event of failure to provide such maintenance, the superintendent, after sixty (60) days' notice, may order the removal of the billboard. If the owner should fail to remove the billboard, the city, after sixty (60) days' written notice, may remove the billboard at the owner's expense.
10. No billboard shall be erected, rebuilt, altered or relocated without a permit from the city's division of inspections, in accordance with such regulations as may be promulgated by the superintendent of inspections and approved by the city manager. (Ord. No. O-87-210, § 1, 9-8-87)

**Sec. 35.1- 27. Non conforming uses.**

- (a) Legislative intent. In the placing of zoning district regulations in the city's land through this ordinance, there are a number of land uses and activities on the land which exist prior to the enactment of



this ordinance and which do not conform to the regulations herein. These nonconforming uses are, in most cases, incompatible with their surrounding uses, since the objective of district regulations is to permit compatible uses. Therefore, some limitations on the continued operation of nonconforming uses is appropriate in the public interest. While they are generally permitted to remain, the regulations herein restrict their further intensification or expansion and provide for their prohibition, if they are discontinued for a two (2) year period of time.

(b) Continuing existing uses. Except as otherwise provided in this article, the lawfully permitted use of land or buildings existing at the time of the adoption of this ordinance may be continued, although such use does not conform to the standards specified by this ordinance for the zone in which such land or building is located. Said uses shall be deemed nonconforming uses.

(c) Existing conditional uses. Any use lawfully existing at the time of the adoption of this ordinance, or of any amendment thereto, in the district in which such use is classified herein as a conditional use, shall continue as a conditional use in such zone.

(d) Completion of buildings under construction. Any building, the construction of which has been started pursuant to plans on file with the division of inspections and for which a lawful building permit was issued before the effective date of this ordinance or of an amendment thereto, and the ground story framework of which, including the second tier of beams, has been completed within one (1) year after the adoption of this ordinance or amendment thereto, may be completed in accordance with said plans on file with the division of inspections; provided that such construction is diligently prosecuted and the building is completed within two (2) years of the adoption of this ordinance.

(e) Nonconforming use of land with minor improvements. Where no building is involved, the nonconforming use of land with minor improvements may be continued; provided, however:

(1) That no such nonconforming use shall be enlarged or increased, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of this ordinance, unless specifically allowed by other provisions in this ordinance.

(2) That no such nonconforming use be moved, in whole or in part, to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of the adoption of this ordinance.

(3) That if such nonconforming use of land, or any portion thereof, ceases for any reason for any continuous period of more than two (2) years or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of this ordinance.

(4) That no nonconforming use of land shall be changed to another nonconforming use.

(f) Nonconforming use of buildings and structures.

(1) Enlargements or extensions. A building or a structure, the use of which does not conform to the use regulations for the district in which it is situated, shall not be enlarged or extended, unless the use therein is changed to a conforming use or the use extended is a conforming use.

(2) Structural alterations. Such nonconforming building or structure shall not be structurally altered, unless such alterations are required by law; provided, however, that except in the case of billboards such maintenance and repair work as is required to keep a nonconforming building or structure in sound condition shall be permitted, limited to a maximum expenditure of ten per cent (10%) of current replacement costs within a period of twelve (12) months. In the case of billboards, any required maintenance or any changes in the advertising message shall not be deemed an alteration.

(3) Change of use. If no structural alterations are made, any nonconforming use of a building may, as a conditional use after public notice and hearing, be changed to another nonconforming use; provided that the planning commission, either by general rule or by making findings in the specific case, shall find that the proposed use is equally or more restrictive than the existing nonconforming use. In permitting such

change, the planning commission may require appropriate conditions and safeguards in accordance with the provisions of this ordinance.

(4) Discontinuing, moving. If any nonconforming use of a building ceases for any reason for a continuous period of more than two (2) years or is changed to a conforming use or if the building in which such use is conducted or maintained is moved for any distance whatever, for any reason, then any future use of such building shall be in conformity with the standards specified by this ordinance for the district in which such building is located.

If any building in which any nonconforming use is conducted or maintained is hereafter removed, the subsequent use of the land on which such building was located, and the subsequent use of any building thereon, shall be in conformity with the standards specified by this ordinance for the district in which such land or building is located.

(g) Nonconformity, other than use. A building that is conforming in use, but which does not conform to the height, yard, land coverage, parking or loading requirements of this ordinance, shall not be considered to be nonconforming within the meaning of Section 35.1-27. However, no permit shall be issued that will result in the increase of any such nonconformity. All signs and billboards which do not conform with any of the sign and billboard regulations of this ordinance, including regulations governing size, setbacks and lighting, shall be deemed nonconforming.

(h) Restoration of damaged building and structures. If any nonconforming building or structure is damaged to an extent of more than fifty per cent (50%) of the value of the structure above the foundation, as determined by the division of inspections, no repairs or reconstruction shall be made unless every portion of such building or structure is made to conform to all the regulations of this zoning ordinance for the district in which it is located. If the structure is not restored, it must be removed at the owner's expense within sixty (60) days. Where the destruction of such nonconforming structure is less than fifty per cent (50%), as described above, it may be restored in substantially the same location and the nonconforming use continued, if so permitted by the planning commission after public notice and hearing; provided that the total cost of such restoration does not exceed the replacement value of the destroyed portion of the structure at the time of its destruction and, further provided, that such restoration is started within a period of six (6) months of such destruction and is diligently prosecuted to completion. Nothing in this zoning ordinance shall prevent the strengthening or restoring to a safe condition of any wall declared to be unsafe by the division of inspections. (Ord. No. O-78-352, 12-12-78; Ord. No. O-87-210, § 1, 9-8-87)

## **ARTICLE VI. CONSERVATION DISTRICT**

### **Sec. 35.1-28. Conservation district (R-C).**

(a) Intent. This district is intended to provide for very low development densities in areas not served by city sewer and water supply systems, areas with soils unsuitable for development or areas which should be preserved in low densities for other aspects of the public welfare.

(b) Uses permitted by right. The following uses will be permitted by right, subject to the regulations of the zoning ordinance:

(1) Agriculture (general farming, dairy farming, livestock farming, forestry, horticulture and all uses commonly classed as agricultural). The raising of three (3) or more cattle, goats, horses or other farm animals, and/or five (5) or more poultry or game animals will be permitted on lots of ten (10) acres or more. Any structure for housing or feeding one (1) or more such animals must be at least two-hundred (200) feet from any street or lot line but shall not include any commercial poultry farm or hog farm, and provided further that livestock and poultry shall be kept within secure enclosures and shall not be allowed to roam at large.

(2) One (1) single-family dwelling on each lot [ten (10) acres minimum].

(3) Farm produce stands selling only products grown on the premises.

(4) Telecommunication facilities (see Article XI. Telecommunications towers and facilities).

(5) Truck gardens (commercial and noncommercial).

(c) Uses prohibited. No subdivision development shall be permitted and no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any industrial, manufacturing, trade or commercial purposes except as provided in Section 35.1-27(e).

(d) Permitted accessory uses. The following accessory uses will be permitted in conservation districts subject to the regulations of Section 35.1-24 of the zoning ordinance:

(1) Home occupations, including any such occupation other than that of operating a beauty shop, barber shop, convalescent or nursing home, tourist home, massage or similar establishment offering services to the general public. Home occupations shall be carried on by a member of the family residing on the premises except that, in connection with the practice of a profession, one (1) person not residing in such dwelling unit may be employed. One (1) sign not exceeding one (1) square foot in area and fixed flat to the wall of the building shall be permitted for each street on which the lot abuts to identify the home occupation. No artificial lighting shall be used to illuminate the sign or exterior of the building, nor shall any display of products be made which will indicate from the exterior that the building is being used for any purpose other than that of a dwelling. No mechanical equipment shall be used except such as is customary for purely domestic or household purposes.

(2) Garages for the use of occupants of the property for purposes incidental to the residential use of property owner.

(3) Private recreational facilities.

(4) Signs, as follows:

a. One (1) sign announcing a permitted home occupation will be permitted for each street on which the lot abuts. Each such sign shall not exceed one (1) square foot in area and no artificial lighting may be used to illuminate the sign or the exterior of the building except lights necessary to illuminate steps, walks or house numbers.

b. One (1) temporary sign not exceeding five (5) square feet in area may be erected on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. One (1) construction sign made of wood or metal not exceeding sixteen (16) square feet in area may be erected on the property on which the construction of a building has actually commenced. The sign shall be removed as soon as the building is substantially completed. The sign may be erected on the wall of a trailer, construction shed or on the ground. One (1) subdivision identification sign not exceeding thirty-two (32) square feet in area may be erected at each main street entrance to the subdivided property; provided not over two (2) signs shall be erected for any one (1) subdivision. These signs shall be removed upon completion of the sale of seventy-five (75) per cent of the lots in the subdivision. No electric or other luminous sign and no sign illuminated by a floodlight or other similar device shall be permitted. One (1) sign not to exceed four (4) square feet identifying a club, lodge or community center may be erected. Only shaded white light may be used to illuminate these signs.

c. Church bulletin boards and signs for the display of names of educational or other permitted institutions shall be permitted when such signs do not exceed an aggregate area of eighteen (18) square feet for each institution. Such signs may be illuminated only by shaded white lights.

(e) Uses permitted by conditional use permit. The following uses shall be permitted by conditional use permit under the regulations of Section 35.1-15 and Article X of the zoning ordinance:

- (1) Airports.
  - (2) Antique stores.
  - (3) Boarding house or lodging house (keeping of not more than one (1) non-transient boarder or roomer by a resident family).
  - (4) Care centers.
  - (5) Cemeteries.
  - (6) Churches and other places of worship.
  - (7) Clubs and fraternal organizations.
  - (8) Community swimming pools.
  - (9) Convents and monasteries.
  - (10) Gate houses, guest houses, caretakers' cottages and other residential accommodations for servants or guests of a resident family.
  - (11) Group homes.
  - (12) Hospitals and sanatoriums.
  - (13) Individual mobile homes.
  - (14) Kennels and other small animal raising and boarding.
  - (15) Mobile home parks.
  - (16) Museums and art galleries.
  - (17) Nursing homes.
  - (18) Offices and research and development organizations.
  - (19) Planned unit developments.
  - (20) Police and fire stations.
  - (21) Public and community recreation facilities.
  - (22) Public utilities.
  - (23) Riding academies and stables.
  - (24) Schools and colleges.
  - (25) Shooting ranges.
  - (26) Telecommunication towers (see Article XI, Telecommunication towers and facilities).
  - (27) Temporary fairs and carnivals.
  - (28) Tourist homes or bed and breakfast.
  - (29) Traditional neighborhood developments.
  - (30) Trailer parks, camp grounds.
- (f) Standards.

(1) Minimum lot size. The minimum lot size shall be ten (10) acres.

(2) Yards.

a. Front yards. A minimum setback of fifty (50) feet shall be provided from all lot lines and street rights-of-way. Where no right-of-way has been designated, the right-of-way line shall be assumed to be twenty-five (25) feet from the center line of the street.

b. Side yards. There shall be a side yard having a width of not less than fifty (50) feet on each side of the main building.

c. Rear yards. There shall be a rear yard having a depth of not less than fifty (50) feet.

(3) Area regulations. Each dwelling, together with its accessory buildings, hereafter erected shall be located on a lot having an area of not less than ten (10) acres with an average width of not less than one



hundred fifty (150) feet at the required building line, street frontage at the street right-of-way line of not less than one hundred fifty (150) feet, and not less than five (5) acres per boarder; provided, however, that lots having less area or less width than herein required and of record at the time of the effective date of this section may be occupied by single-family dwellings only.

(4) Building height. In addition to the required minimum setback of fifty (50) feet, building heights shall not exceed one (1) foot of height for each two (2) feet of distance from the lot or street right-of-way line. No portion of any property may be divided from the zoning lot in the future in such a way as to bring the property into nonconformance with this regulation.

(5) Maximum ground coverage. The total ground area of all buildings and paved areas may not exceed ten (10) per cent of the area of the zoning lot.

(6) Parking requirements. Off-street parking and loading space shall be provided as required in Section 35.1-25 of the zoning ordinance. (Ord. No. O-78-352, 12-12-78; Ord. No. O-89-201, § 1, 7-11-89; Ord. No. O-89-248, § 1, 9-12-89; Ord. No. O-90-049, 2-13-90; Ord. No. O-97-246, 12-9-97; Ord. No. O-98-157, 7-14-98)

## **ARTICLE VII. RESIDENTIAL DISTRICTS**

### **Sec. 35.1- 29. Low density residential districts (R-1), single- family.**

(a) Intent. These districts are intended to provide for residential development at low densities, together with other compatible uses, in areas where streets and other services cannot support higher densities.

(b) Uses permitted by right. The following uses are permitted by right in low density residential districts:

(1) One (1) single-family detached dwelling on each lot.

(2) Two (2) family dwellings, in which the owner resides, provided there is but one (1) main entrance which is located in the front of the building and provided further, the building has no outside characteristics, such as outside stairs, other than those common to a single-family dwelling.

(3) Agriculture (see Section 35.1-28).

(4) Telecommunication facilities (see Article XI. Telecommunications towers and facilities).

(c) Prohibited uses. In any R-1 district no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any industrial manufacturing, trade or commercial purposes.

(d) Permitted accessory uses. The following uses will be permitted as accessory uses in low density residential districts subject to the regulations of Section 35.1-24 of the zoning ordinance:

(1) Accessory uses and structures customarily incident to any use permitted by this section, such as a private garage on the same lot with the building or within or attached to the building to which it is accessory; a private stable, building, or structure in which livestock or other farm animals are kept or fed, provided such structure is located at least two hundred (200) feet from any street or lot line; and a non-commercial poultry house, provided such structure is located at least twenty (20) feet from any street or lot line and provided further that livestock and poultry shall be kept within secure enclosures and shall not be allowed to roam at large. No accessory building shall be occupied or rented as a private domicile, except when such building fronts on a street thirty (30) feet in width, or when such building has a perpetual unobstructed easement of access at least thirty (30) feet wide to such street. No accessory building shall be used for gain, nor shall any such building be constructed upon a lot until the construction of the main building has actually commenced and no accessory building shall be used unless the main building on a lot is completed and used.

(2) Home occupations (see Section 35.1-28).

(3) Private recreational facilities.

(e) Uses permitted by conditional use permit. The following uses shall be permitted by conditional use permit in low density residential districts subject to the regulations of Section 35.1-15 and Article X of the zoning ordinance:

(1) Boarding house or lodging house.

(2) Care centers.

(3) Cemeteries and columbariums.

(4) Churches and other places of worship, including parish houses and educational buildings.

(5) Clubs and fraternal organizations.

(6) Community swimming pools.

(7) Convents and monasteries.

(8) Dwellings of any building type not prohibited by city or state law, except individual mobile homes.

(9) Gate houses, guest houses, caretakers' cottages and other residential accommodations for servants or guests of a resident family.

(10) Group homes.

(11) Hospitals and sanatoriums.

(12) Mobile home parks.

(13) Museums and art galleries.

(14) Nursing homes.

(15) Planned unit developments.

(16) Public or community recreational facilities not operated for profit.

(17) Public utilities.

(18) Schools and colleges for general education.

(19) Telecommunication towers (see Article XI, Telecommunication towers and facilities).

(20) Tourist homes or bed and breakfast.

(21) Traditional neighborhood developments.

(f) Standards. Buildings and structures in low density residential districts shall meet the following standards, except as specified in Article X of the zoning ordinance for conditional use permit:

R-1

Maximum net density

(dwellings per acre) 2.90

(dwelling units per acre) 5.8

Minimum front yard (feet) 40

Minimum side yard (feet)	15
Minimum rear yard (feet)	50
Minimum lot size (square feet)	15,000
Minimum street frontage at the street right-of-way line (feet)	100
Minimum lot width at building line (feet)	100
Maximum height (feet)	40
Maximum ground coverage (percent)	20.2

(1) Area regulations. Each dwelling, together with its accessory buildings, hereafter erected shall be located on a lot having an area of not less than fifteen thousand (15,000) square feet and not less than seven thousand five hundred (7,500) square feet per boarder; provided, however, that lots having less area or less width than herein required, and of record at the time of the effective date of this section on December 12, 1978, may be occupied by single-family dwellings only. Further, if a lot of record at the effective date of this section has less width than required, a new single-family dwelling or an addition to an existing single-family dwelling could be built and the side yard setback requirement can be reduced by fifty percent (50%) and the rear yard setback can be reduced by twenty-five percent (25%), provided the lot of record previously had a dwelling situated thereon.

(g) Signs.

(1) One (1) sign announcing a permitted home occupation will be permitted for each street on which the lot abuts. Each such sign shall not exceed one (1) square foot in area and no artificial lighting may be used to illuminate the sign or the exterior of the building, except lights necessary to illuminate steps, walks or house numbers.

(2) One (1) temporary sign not exceeding five (5) square feet in area may be erected on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. One (1) construction sign made of wood or metal not exceeding sixteen (16) square feet in area may be erected on the property on which the construction of a building has actually commenced. The sign shall be removed as soon as the building is substantially completed. The sign may be erected on the wall of a trailer, construction shed or on the ground. One (1) subdivision identification sign not exceeding thirty-two (32) square feet in area may be erected at each main street entrance to the subdivided property; provided not over two (2) signs shall be erected for any one (1) subdivision. These signs shall be removed upon the completion of the sale of seventy-five (75) per cent of the lots in the subdivision. No electric or other luminous sign and no sign illuminated by a floodlight or other similar device shall be permitted. One (1) sign not to exceed four (4) square feet identifying a club, lodge or community center may be erected. Such signs may be illuminated only by shaded white lights.

(3) Church bulletin boards and signs for the display of names of educational or other permitted institutions shall be permitted when such signs do not exceed an aggregate area of eighteen (18) square feet for any one (1) institution. Only shaded white lights may be used for the illumination of this type of sign.

(h) Parking requirements. Off-street parking and loading space shall be provided as required in Section 35.1-25 of the zoning ordinance.

(1) Any owner of a travel trailer, boat and/or boat trailer, truck camper, inhabitable bus or recreational vehicle may park or store, but not inhabit, such equipment on any residential district or business B-1 or B-2 district providing such equipment is located behind the building line of the main structure on the property.

If any owner of a travel trailer, boat and/or boat trailer, truck camper, inhabitable bus or recreational vehicle cannot meet the conditions in item (1) above, such owner may apply to the board of zoning appeals for a variance for the parking or storing of such equipment. (Ord. No. O-78-352, 12-12-78; Ord. No. O-79-

330, § 1, 11-13-79; Ord. No. O-85-140, § 1, 6-11-85; Ord. No. O-89-201, § 1, 7-11-89; Ord. No. O-89-248, § 1, 9-12-89; Ord. No. O-90-050, 2-13-90; Ord. No. O-93-123, 5-11-93; Ord. No. O-96-317, 12-10-96; Ord. No. O-97-246, 12-9-97; Ord. No. O-98-013, 2-10-98)

**Sec. 35.1-30. Low-medium density residential districts (R-2), single-family.**

(a) Intent. These districts are intended to provide for residential development at low-medium densities, together with other compatible uses, in areas where streets and other services cannot support higher densities.

(b) Uses permitted by right. The following uses are permitted by right in low-medium density residential districts:

(1) One (1) single-family detached dwelling on each lot.

(2) Two (2) family dwellings, in which the owner resides, provided there is but one (1) main entrance which is located in the front of the building, and, provided further, the building has no outside characteristics, such as outside stairs, other than those common to a single-family dwelling.

(3) The office of an architect, draftsman, planner, attorney-at-law, physician, osteopath, healer, conveyancer, dentist, surveyor, professional engineer (civil, electrical, mechanical or other), public accountant, minister or teacher residing in the dwelling in which the office is located.

(4) Agriculture (see Section 35.1-28).

(c) Uses prohibited. In any R-2 district no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any industrial, manufacturing, trade or commercial purposes.

(d) Permitted accessory uses. Uses permitted as accessory uses in low density residential districts shall be permitted in low-medium density residential districts subject to the regulations of Section 35.1-24 of this ordinance.

(e) Uses permitted by conditional use permit. The following uses shall be permitted by conditional use permit in low-medium density residential districts subject to the regulations of Section 35.1-15 and Article X of the zoning ordinance:

Uses permitted by conditional use permit in R-1, low density residential districts.

(f) Standards. Buildings and structures in low-medium density residential districts shall meet the following standards, except as specified in Article X of the zoning ordinance for conditional use permit:

	<u>R-2</u>
Maximum net density	
(dwellings per acre)	4.35
(dwelling units per acre)	8.7
Minimum front yard (feet)	40
Minimum side yard (feet)	8
Minimum rear yard (feet)	35
Minimum lot size (square feet)	10,000
Minimum street frontage at the street right-of-way line (feet)	75

R-2

Minimum lot width at building line (feet)	75
Maximum height (feet)	40
Maximum ground coverage (percent)	20.0

(1) Area regulations. Each dwelling, together with its accessory buildings, hereafter erected shall be located on a lot having an area of not less than ten thousand (10,000) square feet and not less than five thousand (5,000) square feet per boarder; provided, however, that lots having less area or less width than herein required, and of record at the time of the effective date of this section on December 12, 1978, may be occupied by single-family dwellings only. Further, if a lot of record at the effective date of this section has less width than required, a new single-family dwelling or an addition to an existing single-family dwelling could be built and the side yard setback requirement can be reduced by fifty percent (50%) and the rear yard setback can be reduced by twenty-five percent (25%), provided the lot of record previously had a dwelling situated thereon.

(g) Signs.

(1) One (1) sign announcing a permitted home occupation will be permitted for each street on which the lot abuts. Each such sign shall not exceed one (1) square foot in area, and no artificial lighting may be used to illuminate the sign or the exterior of the building, except lights necessary to illuminate steps, walks or house numbers.

(2) One (1) temporary sign not exceeding five (5) square feet in area may be erected on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. One (1) construction sign made of wood or metal not exceeding sixteen (16) square feet in area may be erected on the property on which the construction of a building has actually commenced. The sign shall be removed as soon as the building is substantially completed. The sign may be erected on the wall of a trailer, construction shed or on the ground. One (1) subdivision identification sign not exceeding thirty-two (32) square feet in area may be erected at each main street entrance to the subdivided property; provided not over two (2) signs shall be erected for any one (1) subdivision. These signs shall be removed upon the completion of the sale of seventy-five per cent (75%) of the lots in the subdivision. No electric or other luminous sign, and no sign illuminated by a floodlight or other similar device, shall be permitted. One (1) sign not to exceed four (4) square feet identifying a club, lodge or community center may be erected. Such signs may be illuminated only by shaded white lights.

(3) Church bulletin boards and signs for the display of names of educational or other permitted institutions shall be permitted when such signs do not exceed an aggregate area of eighteen (18) square feet for any one (1) institution. Only shaded white lights may be used for the illumination of this type of sign.

(h) Parking requirements. Off-street parking and loading space shall be provided as required in Section 35.1-25 of the zoning ordinance.

(1) Any owner of a travel trailer, boat and/or boat trailer, truck camper, inhabitable bus or recreational vehicle may park or store but not inhabit such equipment in any residential district or business B-1 or B-2 district subject to the following conditions:

- a. It is located behind the building line of the main structure on the property.
- b. It is not over twenty-two (22) feet in length or eight (8) feet nine (9) inches in height.

If any owner of a travel trailer, boat and/or boat trailer, truck camper, inhabitable bus or recreational vehicle cannot meet the conditions in item a. above, such owner may apply to the board of zoning appeals for a variance for the parking or storing of such equipment. (Ord. No. O-78-352, 12-12-78; Ord. No. O-79-330, § 1, 11-13-79; Ord. No. O-85-140, § 1, 6-11-85; Ord. No. O-89-201, § 1, 7-11-89; Ord. No.

O-89-248, § 1, 9-12-89; Ord. No. O-90-051, 2-13-90; Ord. No. O-93-123, 5-11-93; Ord. No. O-96-317, 12-10-96)

**Sec. 35.1-31. Medium density residential districts (R-3), two (2) family.**

(a) Intent. These districts are intended to provide for residential and other compatible uses at medium densities in areas with a high level of road access and other public and commercial services and with topography and soils suitable for such development.

(b) Prohibited uses. Within any medium density residential district (R-3), as indicated on the official zoning map, no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any industrial, manufacturing, trade or commercial purposes.

(c) Uses permitted by right. The following uses will be permitted by right subject to the regulations of the zoning ordinance, including Section 35.1-14 "Site Plan Review:"

(1) Dwellings of any structure type not prohibited by city or state law, except individual mobile homes.

(2) Single-family dwellings.

(3) Two (2) family dwellings of all types.

(4) Public libraries, public museums and art galleries.

(5) The office of an architect, draftsman, planner, attorney-at-law, physician, osteopath, healer, conveyancer, dentist, surveyor, professional engineer (civil, electrical, mechanical or other), public accountant, minister or teacher residing in the dwelling or dwelling unit in which the office is located.

(6) Agriculture (see Section 35.1-28).

(d) Permitted accessory uses. The following uses will be permitted as accessories to principal permitted uses in medium density residential districts subject to the regulations of Section 35.1-24, "Accessory buildings and uses."

(1) Home occupations [see Section 35.1-28(d)].

(2) Garages for the use of occupants of the property.

(3) Private recreational facilities.

(e) Uses permitted by conditional use permit. The following uses shall be permitted in medium density residential districts as conditional use, subject to the regulations of Section 35.1-15 and Article X of the zoning ordinance:

(1) Uses permitted as conditional use in low and low-medium density residential districts except those uses that are permitted by right in medium density residential districts [see Section 35.1-31(c)].

(2) Off-street parking lots serving:

a. Permitted uses in medium density residential districts located within two hundred (200) feet of the lot to be used for off-street parking.

b. Commercial uses in a business district where the said commercial use is adjacent to the lot to be used for off-street parking.

(3) Schools for specific educational purposes such as for technical or vocational training; provided, all operations must be conducted within an enclosed building; and provided further, that all such buildings must be at least one hundred (100) feet from any adjoining property line or street.

(4) Townhouse units for sale (see Section 35.1-56).

(5) Rooming houses.

(f) Standards. Buildings and structures in medium density residential districts shall meet the following standards, except as specified for conditional permit uses in Article X of the zoning ordinance:

	<u>R-3</u>
Maximum net density	
(dwellings per acre)	5.45
(dwelling units per acre)	10.89
Minimum front yard (feet)	30
Minimum side yard (feet)	8
Minimum rear yard (feet)	30
Minimum lot size (square feet)	8,000
Minimum street frontage at the street right-of-way line (feet)	60
Minimum lot width at building line (feet)	60
Maximum ground coverage (percent)	30

Maximum height: the maximum within setback lines shall be forty (40) feet except that, where the lot size permits, maximum height shall be one-half (1/2) the distance to the nearest lot line.

(1) Area regulations. Each dwelling, boardinghouse or lodging house, together with its accessory buildings, shall be located on a lot having an area of not less than four thousand (4,000) square feet for each family unit, boarder, or roomer, except that the minimum area for any such lot shall be eight thousand (8,000) square feet; provided, however, that a lot having less area or less width than herein required, and of record at the time of the effective date of this section on December 12, 1978, may be occupied by a single-family dwelling only. Further, if a lot of record at the effective date of this section has less width than required, a new single-family dwelling or an addition to an existing single-family dwelling could be built and the side yard setback requirement can be reduced by fifty percent (50%) and the rear yard setback can be reduced by twenty-five percent (25%), provided the lot of record previously had a dwelling situated thereon.

(2) Area regulations for townhouse units for sale. For applicable regulations see Section 35.1-56 of the zoning ordinance.

Townhouse units for sale in an R-3 district shall not exceed the maximum net density permitted in an R-3 district.

(g) Signs.

(1) One (1) sign announcing a permitted home occupation will be permitted for each street on which the lot abuts. Each such sign shall not exceed one (1) square foot in area, and no artificial lighting may be used to illuminate the sign or the exterior of the building, except lights necessary to illuminate steps, walks or house numbers.

(2) One (1) temporary sign not exceeding five (5) square feet in area may be erected on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. One (1) construction sign made of wood or metal not exceeding sixteen (16) square feet in area may be erected on the property on which the construction of a building has actually commenced. The sign shall be removed as soon as the building is substantially completed. The sign may be erected on the wall of a trailer, construction shed or on the ground. One (1) subdivision identification sign not exceeding thirty-two

(32) square feet in area may be erected at each main street entrance to the subdivided property; provided not over two (2) signs shall be erected for any one (1) subdivision. These signs shall be removed upon the completion of the sale of seventy-five per cent (75%) of the lots in the subdivision. No electric or other luminous sign, and no sign illuminated by a floodlight or other similar device shall be permitted. One (1) sign not to exceed four (4) square feet identifying a club, lodge or community center may be erected. Such signs may be illuminated only by shaded white lights.

(3) Church bulletin boards and signs for the display of names of educational or other permitted institutions shall be permitted when such signs do not exceed an aggregate area of eighteen (18) square feet for any one (1) institution. Only shaded white lights may be used for the illumination of this type of sign.

(h) Parking requirements. Off-street parking and loading space shall be provided as required in Section 35.1-25 of the zoning ordinance. (Ord. No. O-78-352, 12-12-78; Ord. No. O-79-330, § 1, 11-13-79; Ord. No. O-85-140, § 1, 6-11-85; Ord. No. O-89-201, § 1, 7-11-89; Ord. No. O-89-248, § 1, 9-12-89; Ord. No. O-90-052, 2-13-90; Ord. No. O-93-123, 5-11-93; Ord. No. O-96-317, 12-10-96)

**Sec. 35.1- 32. Medium-high density residential districts (R-4), multi-family.**

(a) Intent. These districts are to provide for residential and other compatible uses at medium-high densities in locations with a very high level of access and necessary services and near employment or with other characteristics making medium-high densities appropriate.

(b) Prohibited uses. Within any medium-high residential district (R-4), as indicated on the official zoning map, no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any industrial, manufacturing, trade or commercial purposes.

(c) Uses permitted by right. Uses permitted by right in medium density residential districts, R-3, shall be permitted by right in medium-high density residential districts, under the regulations of Section 35.1-14 of the zoning ordinance.

Multifamily dwellings or apartment houses.

(d) Permitted accessory uses. Uses permitted as accessory uses in medium density residential districts shall be so permitted in medium-high density residential districts.

(e) Uses permitted by conditional use permit. The following uses shall be permitted by conditional use permit in medium-high density residential districts under the regulations of Section 35.1-15 and Article X of the zoning ordinance:

Uses permitted by conditional use permit in R-3, medium density residential districts, except those uses that are permitted by right in R-4, medium-high density residential districts, [see Section 35.1-32(c)].

(f) Standards. Buildings and structures in medium-high density residential districts shall meet the following standards, except as specified for conditional uses in Article X of the zoning ordinance:

	<u>R-4</u>
Maximum net density	
(dwellings per acre)	7.26
(dwelling units per acre)	21.78
Minimum front yard (feet)	30
Minimum side yard (feet)	8
Minimum rear yard (feet)	25



Minimum lot size (square feet)	6,000
Minimum street frontage at the street right-of-way line (feet)	50
Minimum lot width at building line (feet)	50
Maximum ground coverage (percent)	30

(1) Area regulations. Each dwelling, boardinghouse or lodging house, together with its accessory buildings, shall be located on a lot having an area of not less than two thousand (2,000) square feet for each family unit, boarder, or roomer, except that the minimum area for any such lot shall be six thousand (6,000) square feet; provided, however, that a lot having less area or less width than herein required, and of record at the time of the effective date of this section on December 12, 1978 may be occupied by a single-family dwelling only. Further, if a lot of record at the effective date of this section has less width than required, a new single-family dwelling or an addition to an existing single-family dwelling could be built and the side yard setback requirement can be reduced by fifty percent (50%) and the rear yard setback can be reduced by twenty-five percent (25%), provided the lot of record previously had a dwelling situated thereon.

(2) Area regulations for townhouse units for sale. For applicable regulations, see Section 35.1-56 of the zoning ordinance.

(g) Signs.

(1) One (1) sign announcing a permitted home occupation will be permitted for each street on which the lot abuts. Each such sign shall not exceed one (1) square foot in area, and no artificial lighting may be used to illuminate the sign or the exterior of the building, except lights necessary to illuminate steps, walks or house numbers.

(2) One (1) sign advertising real estate, not to exceed thirty-two (32) square feet in area, may be erected only on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. These signs shall be removed immediately following the sale or rental of the property. One (1) construction sign, not exceeding thirty-two (32) square feet may be erected on each construction project. This sign shall not be erected until construction has actually begun and removed as soon as the building is substantially complete. One (1) sign not exceeding four (4) square feet identifying an apartment complex, club, lodge or community center may be erected on the property in relation to each street on which the property abuts.

(3) Church bulletin boards and signs for the display of names of educational or other permitted institutions shall be permitted when such signs do not exceed an aggregate area of eighteen (18) square feet for any one (1) institution. Only shaded white lights may be used for the illumination of this type of sign.

(h) Parking requirements. Off-street parking and loading space shall be provided as required in Section 35.1-25 of the zoning ordinance. (Ord. No. O-78-352, 12-12-78; Ord. No. O-79-330, § 1, 11-13-79; Ord. No. O-89-201, § 1, 7-11-89; Ord. No. O-89-248, § 1, 9-12-89; Ord. No. O-90-053, 2-13-90; Ord. No. O-93-123, 5-11-93; Ord. No. O-96-317, 12-10-96)

**Sec. 35.1- 33. High density residential districts (R-5), multi-family.**

(a) Intent. These districts are to provide for residential and other compatible uses at high densities in locations with a very high level of access and necessary services and near employment or with other characteristics making high densities appropriate.

(b) Prohibited uses. Within any high density residential district (R-5), as indicated on the official zoning map, no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any industrial, manufacturing, trade or commercial purposes.

(c) Uses permitted by right. Uses permitted by right in medium-high density residential districts, R-4, shall be permitted by right in high density residential districts, under the regulations of Section 35.1-14 of the zoning ordinance.

Multifamily dwellings or apartment houses.

(d) Permitted accessory uses. Uses permitted as accessory uses in medium-high density residential districts shall be so permitted in high density residential districts.

(e) Uses permitted by conditional use permit. The following uses shall be permitted by conditional use permit in high density residential districts under the regulations of Section 35.1-15 and Article X of the zoning ordinance:

Uses permitted by conditional use permit in R-4, medium-high density residential districts, except those uses that are permitted by right in R-5, high density residential districts.

(f) Standards. Business and structures in high density residential districts shall meet the following standards, except as specified for conditional uses in Article X of the zoning ordinance:

	<u>R-5</u>
Maximum net density	
(dwellings per acre)	7.26
(dwelling units per acre)	29.04
Minimum front yard (feet)	30
Minimum side yard (feet)	8
Minimum rear yard (feet)	25
Minimum lot size (square feet)	6,000
Minimum street frontage at the street right-of-way line (feet)	50
Minimum lot width at building line (feet)	50
Maximum ground coverage (percent)	30

(1) Area regulations. Each dwelling, boardinghouse or lodging house, together with its accessory buildings, shall be located on a lot having an area of not less than one thousand five hundred (1,500) square feet for each family unit, boarder, or roomer, except that the minimum area for any such lot shall be six thousand (6,000) square feet; provided, however, that a lot having less area or less width than herein required, and of record at the time of the effective date of this section on December 12, 1978 may be occupied by a single-family dwelling only. Further, if a lot of record at the effective date of this section has less width than required, a new single-family dwelling or an addition to an existing single-family dwelling could be built and the side yard setback requirement can be reduced by fifty percent (50%) and the rear setback can be reduced by twenty-five percent (25%), provided the lot of record previously had a dwelling situated thereon.

(2) Area Regulations for townhouse units for sale. For applicable regulations, see Section 35.1-56 of the zoning ordinance.

(g) Signs.

(1) One (1) sign announcing a permitted home occupation will be permitted for each street on which the lot abuts. Each such sign shall not exceed one (1) square foot in area and no artificial lighting may be used to illuminate the sign or the exterior of the building, except lights necessary to illuminate steps, walks or house numbers.

(2) One (1) sign advertising real estate, not to exceed thirty-two (32) square feet in area, may be erected only on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. These signs shall be removed immediately following the sale or rental of the property. One (1) construction sign not exceeding thirty-two (32) square feet may be erected on each construction project. This sign shall not be erected until construction has actually begun and removed as soon as the building is substantially complete. One (1) sign not exceeding four (4) square feet identifying an apartment complex, club, lodge or community center may be erected on the property in relation to each street on which the property abuts.

(3) Church bulletin boards and signs for the display of names of educational or other permitted institutions shall be permitted when such signs do not exceed an aggregate area of eighteen (18) square feet for any one (1) institution. Only shaded white lights may be used for the illumination of this type of sign.

(h) Parking requirements. Off-street parking and loading space shall be provided as required in Section 35.1-25 of the zoning ordinance. (Ord. No. O-78-352, 12-12-78; Ord. No. O-79-330, § 1, 11-13-79; Ord. No. O-89-201, § 1, 7-11-89; Ord. No. O-89-248, § 1, 9-12-89; Ord. No. O-90-054, 2-13-90; Ord. No. O-93-123, 5-11-93; Ord. No. O-96-317, 12-10-96)

## **ARTICLE VIII. BUSINESS DISTRICTS**

### **Sec. 35.1- 34. Limited business districts (B-1).**

(a) Intent. These districts are intended to provide for business uses which, if properly designed, are compatible with nearby residential areas because they generate a minimum of lights, noise and other nuisances. While they generate a moderate level of employee traffic, they do not involve the constant traffic flows characteristic of retail activities. These districts can provide a transition from retail districts and heavily travelled thoroughfares to residential areas.

(b) Prohibited uses. Within any business B-1 district, as indicated on the official zoning map, no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any industrial or manufacturing purposes.

(c) Uses permitted by right. The following uses will be permitted by right subject to the regulations of the zoning ordinance, including those specific uses in Article X of the zoning ordinance:

- (1) Uses permitted by right and as regulated in the adjacent residential district of highest density.
- (2) Barber shops and beauty parlors.
- (3) Branch banks and branch offices of savings and loan associations, including incidental drive-in service windows for such types of businesses.
- (4) Boarding houses or lodging houses.
- (5) Care centers.
- (6) Churches and other places of worship.
- (7) Clubs and fraternal organizations.
- (8) Computer centers.
- (9) Convalescent and nursing homes.
- (10) Convents and monasteries.
- (11) Dance studios.
- (12) Funeral homes and undertaking establishments.
- (13) Group homes.
- (14) Halls or theaters for music, drama, lectures or other civic or amateur presentations of the arts.

- (15) Libraries, museums and similar institutions of noncommercial nature.
- (16) Offices, provided that no merchandise, material or equipment is stored or kept on the premises, either inside or outside of the building, for sale, demonstration or repair.
- (17) Parking of passenger automobiles, not including trailers, trucks or buses, on open lots for transient occupancy, for which fees may be charged; however, automobile sales will not be permitted on such lots, nor shall any flood lights, or similar device, be used for illumination, except shaded lights sufficient for safety and illumination only the lot itself may be used, provided, the source of light is not visible beyond the property line.
- (18) Police stations, fire stations and public offices providing decentralized services to surrounding residential areas.
- (19) Rooming houses.
- (20) Schools for general education that do not exceed a maximum enrollment of twenty-five (25) students.
- (21) Telecommunications towers and facilities (see Article XI. Telecommunications towers and facilities).
- (22) Telephone exchanges and dial centers.
- (23) Tourist homes or bed and breakfast.
- (24) Other uses determined by the city council to be of similar character to and compatible with the above uses.

(d) Permitted accessory uses. The following uses will be permitted as accessory to principal uses in limited commercial districts as regulated by Section 35.1-24 of the zoning ordinance.

- (1) Uses permitted and as regulated as accessory uses in the adjacent residential district of the highest density.
- (2) Off-street parking lots or structures under the regulations of Section 35.1-25 and Article X of the zoning ordinance.
- (3) Signs, as permitted herein.
- (4) Pharmacies within buildings and occupied by and incidental to medical and dental offices.
- (5) Food service facilities for the use of persons regularly employed in permitted uses, where such facilities are included within the building served.

(e) Uses permitted by conditional use permit. The following uses shall be permitted by conditional use permit in limited business districts (B-1) under the regulations of Section 35.1-15 and Article X of the zoning ordinance:

- (1) Cemeteries and columbariums.
- (2) Cluster commercial development.
- (3) Hospitals and sanatoriums.
- (4) Public utilities.
- (5) Schools and colleges for general education with a total enrollment of over twenty-five (25) students.
- (6) Traditional neighborhood developments.
- (f) Standards for the B-1, limited business district.

## (1) General standards

	<u>B-1</u>
Minimum average lot area per establishment (square feet)	6,000
Minimum lot depth (feet)	100
Minimum front yard (feet)	20
Minimum side yard (feet)	8
Minimum side yard corner lot (feet)	10
Minimum rear yard (feet)	25

## (2) Height regulations.

a. In any residential district or business district, buildings occupied as an apartment house, hotel, telephone exchange, club, public or semi-public building such as a church or other place of worship, school, library, hospital, may be erected to not more than one hundred twenty-five (125) feet in height; provided that the portion of such building more than forty (40) feet in height shall set back from the street, lot or required yard line, one (1) foot for each two (2) feet of such additional height.

b. The building height limitations of this section, except as provided in Article X of the zoning ordinance, shall not apply to church spires, belfries, cupolas, domes, monuments, water towers, cooling towers, elevator bulkheads, fire towers, grain elevators, chimneys, flues, flag poles, radio and television towers, necessary mechanical appurtenances, nor to a parapet wall extending not more than four (4) feet above the limiting height of the building on which it rests. No tower permitted by this exception to the height limitation shall be used as a place of habitation or for tenant purposes. No sign, name plate, display or advertising device of any kind whatsoever shall be inscribed upon or attached to any chimney, tower, tank or other structure which extends above the district height limitations.

(3) Area regulations. Each dwelling, boardinghouse, lodging house, convalescent and nursing home, tourist home and hotel, together with their accessory buildings, shall be located on a lot having an area of not less than one thousand (1,000) square feet for each family unit, except that the minimum area for any such lot shall be six thousand (6,000) square feet, and the minimum width fifty (50) feet; provided, however, that a lot having less area, or less width, than herein required, and of record at the time of the effective date of this section, may be occupied by a single-family dwelling only.

Note 1. Where there are existing buildings in a block, the required front yard shall be the same depth as the average established for such existing buildings, provided that no front yard shall be required to exceed forty (40) feet in depth.

Note 2. These standards need not necessarily apply in planned unit developments.

(g) Signs (accessory uses). Exterior signs pertaining only to the uses conducted on the premises, but not including any projecting signs, roof signs or billboards, will be permitted, subject to the following conditions:

(1) Wall signs shall face only upon a principal street or an abutting parking lot, or where located on a corner lot, may face upon a side street. The aggregate face area of all signs on any one (1) wall of the building shall not exceed forty (40) square feet.

(2) One (1) free-standing sign, permanently fixed to the ground, may be erected on each street on which a lot occupied by a permitted use abuts, provided such sign does not extend beyond the lot line nor shall such sign be located closer to the front property line than two (2) feet. Such sign shall be limited to two (2) faces, each of which shall not exceed forty (40) square feet in area. The overall height of any such sign shall not exceed fifteen (15) feet above the ground.

(3) When a group of buildings are coordinated into a business or shopping area, one (1) free-standing sign, permanently fixed to the ground and designed to identify the area as a whole, may be erected on each street on which the area abuts, provided such sign shall not extend beyond the lot line. Such sign shall be limited to two (2) faces each of which shall not exceed forty (40) square feet in area for the first business tenant, but may be increased incrementally by nine (9) square feet for each additional business tenant up to a maximum of seventy-two (72) square feet. The overall height of any such sign shall not exceed fifteen (15) feet above the ground.

(4) The provisions of this section do not apply to signs on the inside of buildings.

(5) One (1) sign advertising real estate, not to exceed thirty-two (32) square feet in area, may be erected only on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. These signs shall be removed immediately following the sale or rental of the property. One (1) construction sign, not exceeding thirty-two (32) square feet may be erected on each construction project. This sign shall not be erected until construction has actually begun and shall be removed as soon as the building is substantially complete.

(6) Sign illumination. When any sign is lighted in this district, such lights shall be enclosed in the sign, shaded or indirect so that the source of illumination is not visible and in no way interferes with the vision of motorists or with neighboring residents. Only white illumination shall be used, and no flashing (on-and-off) sign simulating movement shall be permitted, except signs indicating time and/or temperature or similar signs erected for the convenience of the public. No fluorescent paint or other preparation can be used for high reflection.

(h) Parking requirements. Off-street parking and loading space shall be provided as required in Section 35.1-25 of the zoning ordinance. (Ord. No. O-78-352, 12-12-78; Ord. No. O-79-330, § 1, 11-13-79; Ord. No. O-89-201, § 1, 7-11-89; Ord. No. O-90-055, 2-13-90; Ord. No. O-91-092, 5-14-91; Ord. No. O-93-123, 5-11-93; Ord. No. O-93-280, 10-12-93; Ord. No. O-97-080, 5-13-97; Ord. No. O-97-246, 12-9-97; Ord. No. O-98-013, 2-10-98)

**Sec. 35.1-35. Local neighborhood business districts (B-2).**

(a) Intent. These districts are to provide for commercial and other services for their immediate area. Uses permitted are those providing merchandise or services needed frequently by occupants of residential areas.

(b) Special regulations. The following special regulations shall apply in local neighborhood business districts:

(1) No B-2 district shall exceed a total of two (2) acres of net area.

(2) No B-2 district shall be established or extended unless it is adjacent to or at least one (1) mile from any other B-2, B-3 or B-4 district.

(3) Boundaries of a B-2 district adjacent to a residential district shall be provided with a buffer according to the regulations of Section 35.1-23 of this ordinance.

(c) Prohibited uses. Within any business B-2 district, as indicated on the official zoning map, no lot, building or structure shall be used and no building shall be erected which is intended or designed to be used in whole or in part for any industrial or manufacturing purpose.

(d) Uses permitted by right. The following uses will be permitted by right in local neighborhood business districts under the regulations of Section 35.1-14 of this ordinance:

(1) Uses permitted by right in R-1 through B-1 districts and as regulated in the adjacent residential district of the highest density.

(2) Establishments selling the following types of merchandise at retail wholly within an enclosed building:

Bak ery goods  
 Confectionery goods  
 An tiques and gifts  
 Deli ca tes sen goods  
 Drugs, phar ma ceu ti cals and cos met ics  
 Books, maga zines and sta tion ery  
 Flow ers and other plants  
 Food  
 Hard ware  
 Va ri ety goods

(3) The following types of service establishments:

Bar ber and beauty shops  
 Lau ndries and dry cleaning establishments: self-service and pick-up and delivery, but without laundry and dry cleaning equipment except coin-operated self-service machines  
 Cus tom dress mak ing  
 Shoe re pair ing, with cus tom ary sales of re lated mer chan dise  
 Tai lor ing shops  
 Branches of banks and sav ings and loans in sti tu tions  
 Medi cal, den tal and other pro fes sional of fices, res tau rants, com pletely en closed within a building.

(4) Other uses determined by the city council to be of similar character to and compatible with the above uses.

(e) Permitted accessory uses. The following shall be permitted as accessories to permitted principal uses in local neighborhood commercial B-2 districts:

- (1) Accessory uses permitted in the adjacent residential district of highest permitted densities.
- (2) Off-street parking lots as regulated in Section 35.1-25 of this ordinance.

(f) Uses permitted by conditional use permit. The following uses shall be permitted in local neighborhood business districts as conditional use under the regulations of Section 35.1-15 and Article X of this ordinance:

(1) Uses permitted as conditional use permits in the B-1 districts and as regulated in the adjacent residential district of the highest density.

(2) Outdoor restaurants.

(3) Schools and colleges for general education with a total enrollment over fifty (50) students.

(g) Standards. The following dimensional standards shall apply within the B-2 business district:

(1) General standards

B-2

Minimum average lot area per establishment (square feet)

6,000

Minimum lot depth (feet)

100

(2) Yard regulations.

a. When a lot in any B-2 district is used, in whole or in part, for residential purposes the yard requirements shall be the same as those in the R-5 residential district Section 35.1-33.

b. Front yards.

1. Where all of the lots contained within a block are in a business B-2 district, there shall be a front yard having a depth of not less than twenty (20) feet; provided that if the natural slope of the ground contained within a block is such that the average difference in elevation between the sidewalk grade and the grade at the setback line is greater than five (5) feet, whether there be buildings in such block or not, the setback line may be established at a distance back where such difference in elevation is five (5) feet, but in no case shall the depth of the front yard be less than fifteen (15) feet.

2. Where the lots contained within a block are partly in this district and partly in another district in which a greater front yard is required, the front yard requirements of the latter district shall apply to the entire street frontage in both districts, or twenty (20) feet, whichever distance is the greater.

3. Where there are existing buildings in a block, the required front yard shall be the same depth as the average established for such existing buildings; provided that no front yard shall be required to exceed forty (40) feet in depth. Provided, further, that in any B-2 business district, when as of the time of passage of this ordinance more than twenty-five (25) per cent of the street frontage on one (1) side of the street is occupied by business buildings, only the setback observed by such buildings shall be considered in establishing the average, and the setback line observed by gasoline service stations shall not be a factor in calculating the average setback line.

4. Interior lots having a frontage on two (2) streets shall have a front yard on each street as provided in a., b. and c. above.

5. Corner lots: Where front yards have been established, or may be required, within a block, on each of two (2) intersecting streets; there shall be a side yard, for the full depth of the lot, abutting the side street of a corner lot, and equal in depth to such established or required front yards on the side street. No accessory building shall project into the required front or side yard abutting either street, nor be located in any rear yard which may extend in front of the required setback line on the side street.

c. Side yards. For corner lots, when a side yard is not required along the side street, there shall be a side yard ten (10) feet in width along such street. For all other lots, no side yard is required except where a business B-2 district abuts a residential district, in which case the yard required on the abutting side shall be the same as that required in the residential district.

d. Rear yards. No rear yard is required except where a business B-2 district abuts a residential district, in which case the yard so abutting shall be the same as the side yard requirement in the residential district.

(3) Height regulations. Building height regulations shall be the same as those in the B-1 district, Section 35.1-34.

(4) Area regulations. Each dwelling, boardinghouse, lodging house, convalescent and nursing home, tourist home and hotel, together with their accessory buildings, shall be located on a lot having an area of not less than one thousand (1,000) square feet for each family unit, except that the minimum area for any such lot shall be six thousand (6,000) square feet, and the minimum width fifty (50) feet; provided, however, that a lot having less area, or less width, than herein required, and of record at the time of the effective date of this section, may be occupied by a single-family dwelling only.

Note 1. These standards need not necessarily apply in planned unit developments.

(h) Signs (accessory uses). Signs permitted in medium-high density residential districts and exterior signs pertaining only to the uses conducted on the premises, but not including any projecting signs, roof signs or billboards, will be permitted, subject to the following conditions:



(1) Wall signs shall face only upon a principal street or an abutting parking lot or when located on a corner lot may face upon a side street if located within fifty (50) feet of the principal street. The aggregate face area of all signs on any one (1) wall of a building shall not exceed twenty-five (25) square feet plus one (1) square foot for each lineal foot of such wall, but not to exceed a maximum of one hundred (100) square feet.

(2) One (1) free-standing sign, permanently fixed to the ground, may be erected on each street on which a lot occupied by a permitted use abuts, provided such sign does not extend beyond the lot line nor shall such sign be located closer to the front property line than two (2) feet. Such sign shall be limited to two (2) faces, each of which shall not exceed sixty (60) square feet in area. The overall height of any such sign shall not exceed fifteen (15) feet above the ground.

(3) When a group of buildings are coordinated into a business or shopping area, one (1) free-standing sign, permanently fixed to the ground and designed to identify the area as a whole, may be erected on each street on which the area abuts, provided such signs shall not extend beyond the lot line. Such sign shall be limited to two (2) faces each of which shall not exceed sixty (60) square feet in area for the first business tenant, but may be increased incrementally by twelve (12) square feet for each additional business tenant up to a maximum of one hundred eight (108) square feet. The overall height of any such sign shall not exceed fifteen (15) feet above the ground.

(4) Signs composed of separate letters identifying a business establishment may be individually mounted on the top side of a marquee serving the establishment; provided no letter shall exceed twenty-four (24) inches in height.

(5) Except for signs permitted on a marquee, no sign shall project more than fifteen (15) inches beyond the face of the building, nor shall any sign project above the parapet wall of the building.

(6) The provisions of this section do not apply to signs on the inside of buildings.

(7) One (1) sign advertising real estate, not to exceed thirty-two (32) square feet in area, may be erected only on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. These signs shall be removed immediately following the sale or rental of the property. One (1) construction sign, not exceeding thirty-two (32) square feet may be erected on each construction project. This sign shall not be erected until construction has actually begun and shall be removed as soon as the building is substantially complete.

(8) Additional temporary signs may be permitted as regulated by Section 35.1-26(d).

(9) Sign illumination. When any sign is lighted in this district, such lights shall be enclosed in the sign, shaded or indirect so that the source of illumination is not visible and in no way interferes with the vision of motorists or with neighboring residents. Only white illumination shall be used, and no flashing (on-and-off) sign, nor any sign simulating movement shall be permitted, except signs indicating time and/or temperature or similar signs erected for the convenience of the public. No fluorescent paint or other preparation can be used for high reflection.

(i) Parking requirements. Off-street parking and loading shall be provided as required in Section 35.1-25 of this ordinance. (Ord. No. O-87-078, § 1, 5-11-82; Ord. No. O-89-201, § 1, 7-11-89; Ord. No. O-92-258, 8-11-92; Ord. No. O-93-280, 10-12-93; Ord. No. O-97-080, 5-13-97)

### **Sec. 35.1- 36. Community business districts (B-3).**

(a) Intent. These districts are to provide for commercial and other services for large sections of the city. They will include a wide range of business uses and other uses compatible with a moderate-sized business area, at densities lower than those permitted in the central business area. New districts of this type will be strongly encouraged to develop as fully planned entities.

(b) Prohibited uses. Within any business B-3 district, as indicated on the official zoning map, no lot, building or structure shall be used and no building shall be erected which is intended or designed to be used in whole or in part for any industrial or manufacturing purpose.

(c) Uses permitted by right. The following uses will be permitted by right in community business districts under the regulations of Section 35.1-14 of the zoning ordinance:

(1) Uses permitted by right or by conditional use permit in the R-1 through B-2 districts, except a PUD, a CCD, a TND, or uses specifically listed as requiring a conditional use permit in the B-3 district.

(2) Establishments selling the following types of merchandise at retail:

Household appliances

Art works

Art supplies

Bakery goods

Bicycles

Business machines

Carpets and rugs

Clothing and accessories

Dry goods

Furniture

Garden and farm supplies

Greenhouses, nurseries and garden supply establishments

Jewelry

Luggage

Musical equipment and supplies

Orthopedic appliances

Optical goods

Paint

Pets

Radios, television sets and phonographs

Phonograph records

Photographic equipment

Sporting goods, toys and games

Supermarkets or food stores exceeding eight thousand (8,000) square feet in total floor area

Virginia A.B.C. package stores

Hotels and motels

(3) Services listed below:

Auditoriums, limited to a maximum capacity of one thousand (1,000) persons

Automobile driving schools

Banquet halls

Bicycle rentals

Blueprinting, duplicating and printing shops limited to a maximum of five thousand (5,000) square feet of floorspace

Business services not involving large mechanical devices schools and colleges of all types (including vocational schools) that do not exceed a maximum enrollment of one hundred (100) students

Public and commercial parking lots and parking garages for automobiles only

Dance studios

Funeral undertakers

Interior decorating establishments  
 Medical and dental laboratories  
 Loan offices  
 Locksmith shops  
 Opticians and optometrists  
 Pawn shops  
 Photographic studios  
 Stage and motion-picture theaters  
 Travel bureaus  
 Gymsnasiums and health salons

(4) Banks, savings and loan, and similar establishments.

(5) Wholesale sales establishments with storage limited to a maximum area of one thousand (1,000) square feet.

(6) Radio and television studios and stations, without towers, provided that studios produce no exterior electromagnetic effect and are sound proofed from adjoining properties.

(7) Restaurants, including drive-in and outdoor restaurants.

(8) Other uses determined by the city council to be similar to and compatible with the above uses.

(d) Permitted accessory uses. The following shall be permitted as accessories to permitted principal uses in community business districts:

(1) Accessory uses permitted in the B-1 and B-2 districts (except those uses customarily permitted only as accessories to residential uses) shall be permitted in B-3 districts only as accessories to residential uses permitted and regulated herein as conditional use permit.

(2) Dance floors, accessory to restaurants.

(3) Other uses determined by the city council to be customary as accessories to uses permitted in this district.

(e) Uses permitted by conditional use permit. The following uses shall be permitted in community business districts as conditional use under the regulations of Section 35.1-15 and Article X of the zoning ordinance:

(1) Residential uses, when part of a multi-use development on a minimum lot size of ten (10) acres.

(2) Automobile service stations.

(3) Arts and crafts shops.

(4) Arenas and auditoriums limited to a maximum capacity of two thousand five hundred (2,500) persons.

(5) Temporary fairs, exhibitions and circuses.

(6) Veterinary hospitals without outdoor kennels, including facilities for the sale and care of animals normally kept as pets but not farm animals.

(7) Automobile and trailer rentals.

(8) Commercial recreation places such as dancing, bowling, billiards and the like, when located within enclosed buildings.

(9) Cluster commercial development.

(10) Schools and colleges of all types exceeding a maximum enrollment of one hundred (100) students.

(11) Traditional neighborhood developments.

(f) Standards. The following dimensional standards shall apply within the B-3 business district:

(1) General standards	<u>B-3</u>
Minimum average lot area per establishment (square feet)	6,000
Minimum lot depth (feet)	100

(2) Yard regulations. The requirements for yards shall be the same as that for business B-2 districts, Section 35.1-35.

(3) Height regulations. The height requirements shall be the same as that for business B-2 districts, Section 35.1-35.

(4) Area regulations. The area requirements shall be the same as those for business B-2 districts, Section 35.1-35.

Note 1. These standards need not necessarily apply in planned unit developments.

(g) Signs (accessory uses). Signs as permitted in the medium-high density residential district and exterior signs pertaining only to the uses conducted on the premises, but not including any projecting signs, roof signs or billboards, will be permitted, subject to the following conditions:

(1) Wall signs shall face only upon a principal street or an abutting parking lot, or where located on a corner lot, may face upon a side street. The aggregate face area of all signs on any one (1) wall of the building shall not exceed fifty (50) square feet plus two (2) square feet for each lineal foot of such wall.

(2) One (1) free-standing sign, permanently fixed to the ground, may be erected on each street on which a lot occupied by a permitted use abuts, provided such sign does not extend beyond the lot line. Such sign shall be limited to two (2) faces, each of which shall not exceed one hundred (100) square feet in area. The overall height of any such sign shall not exceed twenty-four (24) feet above the ground.

(3) When a group of buildings are coordinated into a business or shopping area, one (1) free-standing sign, permanently fixed to the ground, designed to identify the area as a whole may be erected on each street on which the area abuts, provided such sign shall not extend beyond the lot line. Such sign shall be limited to two (2) faces, each of which shall not exceed one hundred fifty (150) square feet in area. The overall height of any such sign shall not exceed twenty-four (24) feet above the ground.

(4) Signs composed of separate letters identifying a business establishment may be individually mounted either on the top side of a marquee serving the establishment or on the top of an exterior wall of the building, provided no letter shall exceed twenty-four (24) inches in height.

(5) One (1) two-faced sign shall be permitted on the underside of each marquee; provided there shall be at least an eight (8) foot vertical clearance between the walkway and the lowest point of a sign. The sign may extend the full width of the marquee and shall be located at the center line or at the main entrance of the business establishment. The sign shall be twelve (12) inches high and erected perpendicular to the face of the building.

(6) No sign shall project more than fifteen (15) inches beyond the face of a building, nor shall any sign project above the parapet wall of the building, except signs indicating time and/or temperature may project not more than five (5) feet beyond the face of the building, provided there is no advertisement or firm name used in connection with such signs, and except for signs permitted on a marquee and on top of exterior walls.

(7) The provisions of this section do not apply to signs on the inside of buildings, nor to small signs on outdoor merchandise display racks, cases and vending devices.

(8) One (1) sign advertising real estate, not to exceed thirty-two (32) square feet in area, may be erected only on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. These signs shall be removed immediately following the sale or rental of

the property. One (1) construction sign, not exceeding thirty-two (32) square feet may be erected on each construction project. This sign shall not be erected until construction has actually begun and shall be removed as soon as the building is substantially complete. (9) Traffic direction signs, each not exceeding four (4) square feet in area, and four (4) feet in height may be displayed on any lot zoned as community business (B-3) as follows: Signs identifying vehicular entrance to and exit from the lot and signs of the type generally used for traffic control necessary for the safe and proper control of vehicular and pedestrian traffic within the lot; provided that such signs and number are approved by the city.

(10) Additional temporary signs may be permitted as regulated by Section 35.1-26(d).

(11) Sign illumination. When any sign is lighted in this district, such lights shall be enclosed in the sign, shaded or indirect so that the source of illumination is not visible and in no way interferes with the vision of motorists or with neighboring residents. Only white illumination shall be used, and no flashing (on-and-off) sign, nor any sign simulating movement shall be permitted, except signs indicating time and/or temperature or similar signs erected for the convenience of the public. No fluorescent paint or other preparation can be used for high reflection.

(h) Parking requirements. Off-street parking and loading space shall be provided as required in Section 35.1-25 of the zoning ordinance. (Ord. No. O-81-134, § 1, 6-9-81; Ord. No. O-82-078, § 1, 5-11-82; Ord. No. O-91-092, 5-14-91; Ord. No. O-92-258, 8-11-92; Ord. No. O-98-013, 2-10-98)

**Sec. 35.1-37. Central business district (B-4).**

(a) Intent. This district is to provide for a wide range of commercial and other sales and service operations, serving the entire metropolitan area. This district is specifically aimed at the encouragement of limited multi-family residences, business and related activities of relatively high densities and with adequate services in the old central business district of Lynchburg.

(b) Design review. In order to retain the architectural integrity of the riverfront/downtown area, the area included in the boundaries of the B-4 district shall be designated as a historic district advisory area. Such designation requires that any exterior alterations within the area, including demolitions, new construction, and exterior alterations to existing structures, shall be subject to review by the design review board for conformity with the commercial historic district design guidelines: downtown Lynchburg. The review shall be conducted as a public meeting with the opportunity for public comment including written notice to property owners within two hundred (200) feet of the subject property. While the recommendations resulting from the design review stipulated by this section are offered in only an advisory capacity, developers are encouraged to comply with such recommendations.

The cost of such public meeting review shall include a fee for notification by certified mail to all required recipients at the standard rate of two dollars (\$2.00) for each written notice to be paid by the petitioner.

(c) Prohibited uses. Within any business B-4 district, as indicated on the official zoning map, no lot, building or structure shall be used and no building shall be erected which is intended or designed to be used in whole or in part for any industrial or manufacturing purpose. No operations shall be carried on which create conditions of noise, odor, particulates or light detrimental to health, safety or the general welfare of the community.

(d) Uses permitted by right. The following uses shall be permitted by right in the central business district under the regulations of Section 35.1-14 of the zoning ordinance:

(1) Any use here in be fore per mit ted by right in R-1, R-2, R-3, R-4 and R-5 dis tricts and busi ness B-1, B-2 and B-3 dis tricts, ex cept the fol low ing:

- a. Free stand ing one- and two- family struc tures.
- b. Drive- in busi ness where per sons are served in auto mo bile, such as re fresh ment stands, restaurants, food stores and the like.
- c. Hiring halls and other places of assembly for the registration for or the assignment of employment.

- (2) Assembly halls of any size.
  - (3) Automobile parking garage, repair shop or parking lot, subject to approval by the city council as provided by other ordinances of the city.
  - (4) Banks and other financial houses, including incidental drive-in service windows.
  - (5) Churches and other places of worship.
  - (6) Clubs, lodges and community centers or organizations.
  - (7) Government buildings used exclusively by the city, county, state or federal government for public purposes.
  - (8) Halls or theaters for music, drama, lectures, or other civic or amateur presentations of the arts.
  - (9) Hotels and motels.
  - (10) Job printing.
  - (11) Newspaper offices and printing.
  - (12) Office buildings.
  - (13) Public libraries, public museums and art galleries.
  - (14) Repair or assembly of jewelry, dental goods, optical goods, millinery, clothing novelties, musical instruments or other items from previously prepared materials such as bone, cloth, cork, fibers, leather, paper, plastics, metals, stones, tobacco, wax, yarns or wood (except for saw mills or planing mills), provided that no conditions are created in which smoke, fumes, noise, odor, light or dust becomes detrimental to the health, safety or the general welfare of the community.
  - (15) Restaurants.
  - (16) Schools and colleges of all types that do not exceed a maximum enrollment of one hundred (100) students.
  - (17) Static transformer stations, telephone exchanges, transmission lines, gas and water mains, conduits for the transmission of electric energy including telephone, telegraph, and noncommercial radio and television poles and towers, and appurtenances thereto, but not including service, storage, or maintenance yards, or offices.
  - (18) Taxicab office.
  - (19) Theaters of any size.
  - (20) Other uses determined by the city council to be of similar character to and compatible with the above uses.
- (e) Permitted accessory uses. Uses, except signs, permitted as accessories to principal uses in the B-3 district shall be permitted as accessories in the B-4 district.
- (f) Uses permitted by conditional use permit. The following uses shall be permitted in central business districts (B-4) under the regulations of Section 35.1-15 and Article X of the zoning ordinance:
- (1) Arcades.
  - (2) Commercial recreation places such as dancing, bowling, billiards and the like, when located within enclosed building.
  - (3) Dance halls.
  - (4) Schools and colleges of all types exceeding a maximum enrollment of one hundred (100) students.
- (g) Standards for B-4, central business district. The following dimensional standards shall apply within business districts:

## (1) General standards.

B-4

Minimum average lot area per establishment (square feet)	None required
Minimum lot depth (feet)	0
Minimum front yard (feet)	0
Minimum rear yard (feet)	0
Minimum side yard (feet)*	0

(2) \*Yards. None required, except that any side yard abutting a residential district shall be a minimum of twice the width required in that district. Such a side yard shall be screened in accordance with Section 35.1-23 of the zoning ordinance.

(3) Height regulations. In any business B-4 district, a building may be erected to any height, provided that the height of that portion of the building in excess of two (2) times the width of the street on which it abuts shall be governed by the following regulations: For each foot such building or portion thereof is set back from any street, lot or required yard line, such building or portion thereof may be erected ten (10) feet in height, provided that no street shall for this purpose be considered to be less than forty (40) feet nor more than sixty (60) feet in width. If a building abuts on two (2) or more streets, that street which permits the greater height shall be used as the basis of measurement.

## (4) Area regulations. None required.

(h) Signs. Exterior signs pertaining only to the uses conducted on the premises, but not including any projecting signs, will be permitted, subject to the following conditions:

(1) Wall signs shall face only upon a principal street or an abutting parking lot, or where located on a corner lot, may face upon a side street. The aggregate face area of all signs on any one (1) wall of a building shall not exceed fifty (50) square feet, plus two (2) square feet for each lineal foot of such wall.

(2) One (1) free-standing sign, permanently fixed to the ground, may be erected on each street on which a lot occupied by a permitted use abuts, provided such sign does not extend beyond the lot line. Such sign shall be limited to two (2) faces, each of which shall not exceed one hundred (100) square feet in area. The overall height of any such sign shall not exceed twenty-four (24) feet above the ground.

(3) When a group of buildings are coordinated into a business or shopping area, one (1) free-standing sign, permanently fixed to the ground, designed to identify the area as a whole may be erected on each street on which the area abuts, provided such sign shall not extend beyond the lot line. Such sign shall be limited to two (2) faces, each of which shall not exceed one hundred fifty (150) square feet in area. The overall height of any such sign shall not exceed twenty-four (24) feet above the ground.

(4) Signs composed of separate letters identifying a business establishment may be individually mounted either on the top side of a marquee serving the establishment or on the top of an exterior wall of the building, provided no letter shall exceed twenty-four (24) inches in height.

(5) One (1) two-faced sign shall be permitted on the underside of each marquee, provided there shall be at least an eight (8) foot vertical clearance between the walkway and the lowest point of the sign. The sign may extend the full width of the marquee and shall be located at the center line or at the main entrance of the business establishment. The sign shall be twelve (12) inches high and erected perpendicular to the face of the building.

(6) No sign shall project more than fifteen (15) inches beyond the face of a building, nor shall any sign project above the parapet wall of a building, except signs indicating time and/or temperature may project not more than five (5) feet beyond the face of the building, provided there is no advertisement or firm name used in connection with such signs, and except for signs permitted on a marquee and on top of exterior walls.

(7) Sign illumination. When any sign is lighted, such lights shall be enclosed in the sign, shaded or indirect, so that they will in no way interfere with the vision of motorists or with neighboring residents. Only white illumination shall be used, and no flashing (on-and-off) sign, nor any sign simulating movement, shall be permitted, except signs indicating time and/or temperature or similar signs erected for the convenience of the public. No fluorescent paint or other preparation can be used for high reflection.

(8) The provisions of this section do not apply to signs on the inside of buildings, nor to small signs on outdoor merchandise display racks, cases and vending devices.

(9) One (1) sign advertising real estate, not to exceed thirty-two (32) square feet in area, may be erected only on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. These signs shall be removed immediately following the sale or rental of the property. One (1) construction sign, not exceeding thirty-two (32) square feet may be erected on each construction project. This sign shall not be erected until construction has actually begun and shall be removed as soon as the building is substantially complete.

(10) Additional temporary signs may be permitted as regulated by Section 35.1-26(d).

(i) Parking requirements. In the central business district, the minimum off-street parking requirements shall not apply because of the impracticability of providing such parking on the basis of individual uses in highly congested areas. However, developers of new buildings will be strongly encouraged to provide parking up to the minimum requirements. (Ord. No. O-78-352, 12-12-78; Ord. No. O-81-134, § 1, 6-9-81; Ord. No. O-82-078, § 1, 5-11-82; Ord. No. O-87-210, § 1, 9-8-87; Ord. No. O-91-092, 5-14-91; Ord. No. O-92-258, 08-11-92; Ord. No. O-93-280, 10-13-93; Ord. No. O-94-069, 4-12-94)

#### **Sec. 35.1-38. General business district (B-5).**

(a) Intent. This district is to provide for a variety of commercial and similar uses which require large sites and which often produce substantial nuisance effects. The location of these districts should provide for a high level of access, relatively large amounts of level land, and opportunities to shield adjacent residential districts from nuisance effects.

(b) Special regulations. The following special regulations shall apply in general business districts:

(1) Direct access shall be available to at least one (1) arterial street.

(2) Driveways shall be kept to a minimum and shall meet the requirements of the "Standard Entrance Policy" of the City of Lynchburg.

(3) Buffers shall be provided along boundaries of this district adjacent to any residential district.

(c) Prohibited uses.

(1) Within any business B-5 district, as indicated on the official zoning map, no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for other than one (1) or more of the following specified purposes; provided that no operations shall be carried on which create conditions of smoke, fumes, noise, odor, light or dust detrimental to health, safety or the general welfare of the community.

(d) Uses permitted by right. The following uses shall be permitted by right in the general business district subject to the regulation of Section 35.1-14 to the zoning ordinance:

(1) Uses permitted by right in the B-3 district except one (1) and two (2) family dwellings.

(2) The following additional uses:

Auction rooms

Armories



Auto mo bile and truck rental  
Auto mo bile, truck and trailer sales with out side sales and stor age per mit ted Auto mo bile service stations  
Auto mo bile and truck tire sales  
Re build ing and re tread ing es tablish ments  
Bat tery sales  
Bot tling plants  
Bill boards, sub ject to the regu la tions of Sec tion 35.1- 26.1  
Black smith shops  
Book binding  
Build ing ma te rial sales  
Car pen try shops  
Cof fee and pea nut roast ing  
Com mer cial amuse ments, in clud ing swim ming pools, golf courses and driv ing ranges, and skat ing rinks, but not in clud ing cir cuses, car ni vals, and race tracks  
Con trac tors' es tablish ments  
Dair ies, pas teur iz ing plants, or ice cream manu fac ture  
Dance halls  
De posi to ries for the stor age of of fice rec ords, mi cro film or com puter tapes  
Dia per serv ices  
Drive- in thea ters  
Dry clean ing and dy ing plants  
Ex ter mi na tors  
Fur ni ture up hol ster ing and re pair shops  
Cus tom fur ni ture manu fac tur ing  
Com mer cial green houses  
Hir ing halls and other places of as sem bly for the reg is tra tion or as sign ment of em ploy ment  
Auto mo bile paint ing and body re pair shops  
Laundries  
Sales lots for con struc tion and farm equip ment and simi lar ma chin ery  
Ice manu fac ture  
Com mer cial ken nels for dogs and other pets  
Whole sale or pro duce mar kets  
Monu ment and grave stone sales  
Motion- picture pro duc tion stu dios  
Newspaper of fices  
Pho to graphic de vel op ing and print ing es tablish ments  
Print ing plants  
Sec ond- hand stores in clud ing auc tion sales pro vided such ac tiv ity is con ducted wholly within an en closed building  
Small sign shops  
Stor age ware houses and yards, ex cept san dyards, gravel yards, coal yards, rail road yards, au to mo bile wreck ing yards, junk yards or the stor age of com bus ti bles pro hib ited by the fire code  
Travel trailer sales and rent als  
Win dow blinds, shades and awn ings (manu fac ture)  
Leather prod ucts (not to in clude tan ning)

Other uses determined by the city council to be of similar character to and compatible with the above uses.

(e) Permitted accessory uses. The following uses are permitted as accessory to principal uses permitted in general business districts:

- (1) Accessory uses permitted in B-3 districts.
- (2) Other uses determined by the planning commission to be customarily accessory to uses permitted in this district.
- (3) Exterior signs pertaining to the uses conducted on the premises, as regulated in the B-4 district, except that projecting signs otherwise complying with this ordinance will be permitted.

(f) Uses permitted by conditional use permit. The following uses shall be permitted in general business districts as conditional use under the regulations of Section 35.1-15 and Article X of the zoning ordinance:

- (1) Temporary fairs, amusement parks and circuses.
  - (2) Arenas, auditoriums or stadiums unlimited in capacity.
  - (3) Moving and storage establishments.
  - (4) Transient trailer parks.
  - (5) Radio towers and transmitting stations.
  - (6) One (1) and two (2) family dwellings.
  - (7) Motor freight stations.
  - (8) Trucking terminals.
  - (9) Commercial swimming pools.
  - (10) Schools and colleges of all types exceeding a maximum enrollment of one hundred (100) students.
- (g) Standards for B-5 business districts.

(1) General standards	<u>B-5</u>
Minimum average lot area per establishment (square feet)	None required
Minimum lot depth (feet)	0

(2) Yards. When a lot in any business B-5 district is used, in whole or in part, for residential purposes, the yard requirements shall be the same as those in a residential R-5 district.

a. Front yards.

1. Where all of the lots contained within a block are located in a business B-5 district, no front yard will be required.

2. Where the lots contained within a block are partly in this district and partly in another district in which a greater front yard is required, the front yard requirements of the latter district shall apply to the entire street frontage in both districts, or twenty (20) feet, whichever distance is the greater.

b. Side yards. No side yard shall be required except where a business B-5 district abuts a residential district, in which case the yard required on the abutting side shall be the same as that required in the residential district.

c. Rear yards. The requirement for rear yards is the same as that for business B-2 districts, Section 35.1-35.

(3) Height regulations. The height regulations shall be the same as those required for a business B-4 district, Section 35.1-37.

(4) Area regulations. The area requirements shall be the same as those required for a business B-2 district, Section 35.1-35.

(h) Signs.

(1) Wall signs shall face only upon a principal street or an abutting parking lot, or where located on a corner lot, may face upon a side street. The aggregate face area of all signs on any one (1) wall of a building shall not exceed fifty (50) square feet, plus two (2) square feet for each lineal foot of such wall.

(2) One (1) free-standing sign, permanently fixed to the ground, may be erected on each street on which a lot occupied by a permitted use abuts, provided such sign does not extend beyond the lot line. Such sign shall be limited to two (2) faces, each of which shall not exceed one hundred (100) square feet in area. The overall height of any such sign shall not exceed twenty-four (24) feet above the ground.

(3) When a group of buildings are coordinated into a business or shopping area, one (1) free-standing sign, permanently fixed to the ground, designed to identify the area as a whole may be erected on each street on which the area abuts, provided such sign shall not extend beyond the lot line. Such sign shall be limited to two (2) faces, each of which shall not exceed one hundred fifty (150) square feet in area. The overall height of any such sign shall not exceed twenty-four (24) feet above the ground.

(4) Signs composed of separate letters identifying a business establishment may be individually mounted either on the top side of a marquee serving the establishment or on the top of an exterior wall of the building, provided no letter shall exceed twenty-four (24) inches in height.

(5) One (1) two-faced sign shall be permitted on the underside of each marquee, provided there shall be at least an eight (8) foot vertical clearance between the walkway and the lowest point of the sign. The sign may extend the full width of the marquee and shall be located at the center line or at the main entrance of the business establishment. The sign shall be twelve (12) inches high and erected perpendicular to the face of the building.

(6) No sign shall project more than fifteen (15) inches beyond the face of a building, nor shall any sign project above the parapet wall of a building, except signs indicating time and/or temperature may project not more than five (5) feet beyond the face of the building, provided there is no advertisement or firm name used in connection with such signs, and except for signs permitted on a marquee and on top of exterior walls.

(7) When a sign is lighted, such lights shall be enclosed in the sign, shaded or indirect, so that they will in no way interfere with the vision of motorists or with neighboring residents. Only white illumination shall be used, and no flashing (on-and-off) sign, nor any sign simulating movement, shall be permitted; except signs indicating time and/or temperature or similar signs erected for the convenience of the public. No fluorescent paint or other preparation can be used for high reflection.

(8) The provisions of the section do not apply to signs on the inside of buildings, nor to small signs on outdoor merchandise display racks, cases and vending devices.

(9) One (1) sign advertising real estate, not to exceed thirty-two (32) square feet in area, may be erected only on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. These signs shall be removed immediately following the sale or rental of the property. One (1) construction sign, not exceeding thirty-two (32) square feet may be erected on each construction project. This sign shall not be erected until construction has actually begun and shall be removed as soon as the building is substantially complete. (10) Traffic direction signs, each not exceeding four (4) square feet in area, and four (4) feet in height may be displayed on any lot zoned as community business (B-5) as follows: Signs identifying vehicular entrance to and exit from the lot and signs of the type generally used for traffic control necessary for the safe and proper control of vehicular and pedestrian traffic within the lot; provided that such signs and numbers are approved by the city.

(11) Additional temporary signs may be permitted as regulated by Section 35.1-26(d).

(i) Parking requirements. Off-street parking and loading space shall be provided; however, the requirements of off-street parking of said section shall not apply in connection with buildings located in the first fire district as described in the city code. (Ord. No. O-78-352, 12-12-78; Ord. No. O-81-134, § 1, 6-9-81; Ord. No. O-82-078, § 1, 5-11-82; Ord. No. O-87-210, § 1, 9-8-87; Ord. No. O-91-092, 5-14-91 Ord. No. O-92-258, 8-11-92)

**Sec. 35.1- 38.1. River front business district (B-6).**

(a) Intent. This district is to provide for a wide range of residential, commercial, and other sales and service operations, serving the entire metropolitan area. This district is specifically designed to encourage quality development of the waterfront, to preserve its design and historic resources, and to develop the area's full potential for varied uses. Development is intended to provide appropriate reuse of existing structures, to encourage more feasible commercial and mixed commercial/residential uses, to promote safe and convenient pedestrian circulation and access to the river, and to assure beneficial visual relationships within the district and from principal view points.

(b) Access. In order to assure public access to the James River for recreational purposes and to protect the aesthetic qualities of the riverfront, retention of all existing public right-of-ways is encouraged. For new development between Jefferson Street and the James River, public access is encouraged across the subject property and through any new structure proposed to be built between the terminus of an existing public right-of-way and the James River. This access toward the James River shall be provided with a minimum width of ten (10) feet at intervals of approximately three hundred and fifty (350) feet along the riverfront.

(c) Design review. In order to retain the architectural integrity of the riverfront/downtown area, the area included in the boundaries of the B-6 district shall be designated as a historic district advisory area. Such designation requires that any exterior alterations within the area, including demolitions, new construction, and exterior alterations to existing structures, shall be subject to review by the design review board for conformity with the commercial historic district design guidelines: downtown Lynchburg. The review shall be conducted as a public meeting with the opportunity for public comment including written notice to property owners within two hundred (200) feet of the subject property. While the recommendations resulting from the design review stipulated by this section are offered only in an advisory capacity, developers are encouraged to comply with such recommendations.

The cost of such public meeting shall include a fee for notification by certified mail to all required recipients at the standard rate of two dollars (\$2.00) for each written notice, to be paid by the petitioner.

(d) Prohibited uses. Within the business B-6 district, as indicated on the official zoning map, no lot, building or structure shall be used and no building shall be erected which is intended or designed to be used in whole or in part for any industrial or manufacturing purpose, unless it fits the definition regarding the repair or assembly of goods as specified in section 35.1-38.1(g)(7), of this district. No operations shall be carried on which create conditions of noise, odor, particulate or light detrimental to health, safety or the general welfare of the community.

(e) Uses permitted by right. The following uses shall be permitted by right in the riverfront business district under the regulations of section 35.1-14, site plan review, of the zoning ordinance:

(1) Any use hereinbefore permitted by right in R-1, R-2, R-3, R-4 and R-5 districts and business B-1, B-2, B-3, B-4, and B-5 districts, except the following:

- a. Generally, any use which requires outside storage shall be prohibited, unless otherwise stated.
- b. The following types of use, which are considered to be too intensive:

Armories

Auto mobile and truck rental with out side stor age

- Auto mobile or truck paint ing and body re pair shops
  - Auto mobile or truck re pair shop
  - Auto mobile, truck and trailer sales with out side sales and stor age per mit ted
  - Billboards
  - Bot tling plants
  - Build ing ma te rial sales (with out side stor age)
  - Car pen try shops (with out side stor age)
  - Con trac tors' es tab lish ments (with out side stor age)
  - Dair ies, pas teur iz ing plants, or ice cream manu fac ture (with out side stor age)
  - Drive-in thea ters
  - Ex ter mi na tors (with out side stor age)
  - Greenhouses (com mer cial)
  - Ice manu fac ture (com mer cial)
  - Ken nels (out side com mer cial) for dogs and other pets
  - Monu ment and grave stone sales
  - Mo tor freight sta tions
  - Print ing plants (see job print ing, which is al lowed by right)
  - Sales lots for con struc tion and farm equip ment and simi lar ma chin ery
  - Stor age yards, in clud ing sand yards, gravel yards, coal yards, rail road yards, auto mo bile wreck ing yards, junk yards or the stor age of com bus ti bles pro hib ited by the fire code
  - Tires, re build ing and re tread ing es tab lish ments
  - Tran sient trailer parks
  - Travel trailer sales and rent als
  - Truck ing termi nals
  - Win dow blinds, shades and awn ings (manu fac ture)
- (2) Boat sales, service, and rentals
- (3) Exhibitions and festivals not to exceed fifteen (15) days duration, by special permit subject to approval by the city manager or his designated official. (See temporary amusement parks, carnivals, circuses, fairs, and the like, which are allowed by conditional use permit)
- (4) Livery stables (excluding outside storage)
- (5) Storage warehouses and wholesalers (with no outside storage)
- (6) Water based transportation and recreation facilities
- (7) Wholesale and produce markets (with no outside storage)
- (8) Other uses determined by city council to be of similar character to and compatible with the above uses
- (f) Permitted accessory uses. Uses, except signs, permitted as accessories to principal uses in the B-3 district shall be permitted as accessories in the B-6 district.
- (g) Uses permitted by conditional use permit. The following uses shall be permitted in the riverfront business district (B-6) under the regulations of Section 35.1-15 and Article X of the zoning ordinance:
- (1) Arenas, auditoriums, or stadiums, exceeding a maximum capacity of one thousand (1,000) persons
  - (2) Automobile or truck service stations
  - (3) Automobile or truck washing facilities

- (4) Cluster commercial development districts
- (5) Moving and storage establishments
- (6) Radio towers and transmitting stations
- (7) Repair, assembly, or processing of goods, such as that which may be found in an I-1 or I-2 district (except for sawmills or planing mills), provided that no conditions are created in which smoke, fumes, noise, odor, light, or dust becomes detrimental to the health, safety, or general welfare of the community and that there is no outside storage
- (8) Schools and colleges of all types exceeding a maximum on site enrollment of one hundred (100) students
- (9) Sign shops, small
- (10) Temporary amusement parks, carnivals, circuses, fairs, and the like (See exhibitions and festivals, which are allowed by right.)

(h) Standards for B-6, riverfront business district. The following dimensional standards shall apply within business districts:

(1) General standards. B-6

Minimum average lot area per establishment

(square feet)None required

Minimum lot depth (feet) 0

Minimum front yard (feet) 0

Minimum rear yard (feet) 0

Minimum side yard (feet)\* 0

(2) \*Yards. None required, except that any side yard abutting a residential district shall be a minimum of twice the width required in that district. Such a side yard shall be screened in accordance with section 35.1-23 of the zoning ordinance.

(3) Height regulations. None required.

(4) Area regulations. None required.

(i) Signs. It is recommended that signs in the riverfront business district conform to the commercial historic districts design guidelines: downtown Lynchburg as adopted by city council September 15, 1986 and readopted on December 10, 1991. Exterior signs pertaining only to uses conducted on the premises will be permitted, subject to the following conditions:

(1) Free standing ground signs, roof signs, large projecting signs, internally illuminated plastic signs, overly bright signs, moving signs or signs simulating movement, and flashing illuminated signs are not allowed.

(2) The provisions of this section do not apply to signs on the inside of buildings.

(3) Wall signs shall face only upon a principal street or an abutting parking lot, or where located on a corner lot, may face upon a side street. The aggregate face area of all signs on any one (1) wall of a building shall be limited to one (1) square foot of sign per linear foot of the building and the total area of the sign shall not exceed twenty-five (25) square feet. Letters and symbols shall be limited to a maximum height of

twelve (12) inches. These regulations do not apply to the restoration of existing historically significant wall signs.

(4) No sign shall project more than four (4) feet beyond the face of a building, nor shall any sign project above the parapet wall of a building.

(5) When any sign is lighted, the illumination must be indirect and should have the light source concealed. Only illumination shall be used and must be directed to prevent interference with the vision of motorists or adjacent occupants. No fluorescent paint or other preparation can be used for high reflection.

(6) One (1) sign advertising real estate, not to exceed sixteen (16) square feet in area, may be erected only on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. These signs shall be removed immediately following the sale or rental of the property. One (1) construction sign, not exceeding sixteen (16) square feet may be erected on each construction project. This sign shall not be erected until construction has actually begun and shall be removed as soon as the building is substantially complete.

(7) Additional temporary signs may be permitted as regulated by section 35.1-26(d).

(j) Parking requirements. In the riverfront business district, the minimum off-street parking requirements shall not apply because of the impracticability of providing such parking on the basis of individual uses in highly congested areas. However, developers will be strongly encouraged to provide parking up to the minimum requirements. (Ord. No. O-94-069, 4-12-94)

#### **Sec. 35.1- 39. Restricted industrial districts (I-1).**

(a) Intent. Restricted industrial districts are intended to provide for industrial plants developed at moderate to low densities and with high standards of building and site design. These districts can be mapped in close proximity to residential areas and are particularly appropriate along regional highways, where they can serve to improve the attractiveness and amenity of these highways to the benefit of the traveler, the community and the individual plant owner.

(1) In any industrial I-1 district, as indicated on the official zoning map, no lot, building or structure shall be used, and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any use which is in conflict with any ordinance of the City of Lynchburg now existing or hereafter enacted. No use shall be allowed unless listed below as a use permitted by right, as a permitted accessory use or as a use permitted by conditional use permit, provided, however, that any such permitted use existing prior to December 13, 1988, may be enlarged or expanded, but not relocated, so long as it meets all other applicable requirements of this chapter. Any such use shall not be subject to any of the limitations or other regulations prescribed for non-conforming uses elsewhere provided in this chapter.

(b) Special regulations. The following special regulations shall apply in restricted industrial districts (I-1):

(1) Required setbacks and other open areas not needed for operations shall be landscaped and such landscaping shall be maintained at all times.

(2) No use shall be permitted which produces noise, unshielded light, smell, dust or any other airborne nuisance which is perceptible beyond the property line of each zoning lot.

(3) All manufacturing, processing, testing, storage and similar operations shall be contained completely within buildings or structures.

(4) All building or structure sides which face a public street shall be of at least seventy (70) percent nonmetallic materials.

(5) Refuse collection areas and bulk loading operations, including a loading and unloading berth, shall be screened from view from all public streets or common boundaries with residential districts. These facilities shall be screened using construction materials or earth berms, but not landscaping. On those building sides

which face a public street the screening materials shall be at least seventy (70) percent nonmetallic and shall match the materials used on those building sides. This regulation shall not apply to parking or recreation facilities, except that such facilities shall be screened from any adjacent residential development.

(c) Prohibited uses. The following uses are specifically prohibited in restricted industrial districts:

- (1) Fuel storage yards.
- (2) Contractors storage yards.
- (3) Lumber yards.
- (4) Saw mills.
- (5) Stonework.

(d) Uses permitted by right. The following uses shall be permitted by right in restricted industrial districts subject to the regulations of Section 35.1-14 of this ordinance:

- (1) Dwellings and agricultural uses existing at the time the land is zoned in this district.
- (2) Air conditioning, refrigerated equipment (manufacturing).
- (3) Apparel and accessories, hosiery and lingerie (manufacturing).
- (4) Automatic temperature controls (manufacturing).
- (5) Blank books, loose leaf binders and devices (manufacturing).
- (6) Blueprinting and photostat establishments.
- (7) Books, publishing and printing.
- (8) Business machines, typewriters, adding machines, calculators, card punching or counting equipment (manufacturing).
- (9) Camera and photographic equipment (manufacturing).
- (10) Canvas products (manufacturing).
- (11) Communication equipment (manufacturing).
- (12) Computer centers.
- (13) Computer (manufacturing).
- (14) Costume jewelry, costume novelties, buttons and miscellaneous notions (except precious metals) (manufacturing).
- (15) Cosmetics and toiletries (manufacturing).
- (16) Curtains and draperies (manufacturing).
- (17) Cutlery, hand tools and general hardware (manufacturing).



- (18) Data processing service.
- (19) Dental equipment and supplies (manufacturing).
- (20) Dental laboratory services.
- (21) Depositories for the storage of office records, microfilm or computer tapes.
- (22) Electrical appliance, components and instrument (manufacturing).
- (23) Electrical transmission and distribution equipment (manufacturing).
- (24) Electrical lighting and wiring equipment (manufacturing).
- (25) Electrical testing laboratories.
- (26) Engineering, laboratory and scientific and research instruments, equipment (manufacturing).
- (27) Envelope (manufacturing).
- (28) Government buildings used exclusively by the city, state or federal government for public service.
- (29) Greeting card (manufacturing).
- (30) Hats, caps and millinery (manufacturing)
- (31) Jewelry, silverware and flatware (manufacturing).
- (32) Lace goods (manufacturing).
- (33) Lithographing.
- (34) Medical equipment (manufacturing).
- (35) Medical instruments (manufacturing).
- (36) Musical instruments and parts (manufacturing).
- (37) Newspapers, publishing and printing.
- (38) Office, general, directly related to industrial activities.
- (39) Office building (with a minimum of twelve thousand (12,000) square feet of gross floor area.)
- (40) Office, computing and accounting machines (manufacturing).
- (41) Ophthalmic goods (manufacturing).
- (42) Optical instruments and lenses (manufacturing).
- (43) Orthopedic, prosthetic and surgical supplies (manufacturing).
- (44) Pharmaceutical (manufacturing).
- (45) Photoengraving.
- (46) Photographic equipment and supplies (manufacturing).
- (47) Printing and publishing.
- (48) Professional, scientific and controlling instruments; photographic and optical goods, watches and clocks, clockwork operated devices and parts (manufacturing).
- (49) Radio and television sets (manufacturing).
- (50) Research, development and testing laboratories.
- (51) Signs and advertising displays (manufacturing).
- (52) Silverware and plated ware (manufacturing).
- (53) Sporting goods (manufacturing).
- (54) Telecommunications towers and facilities (see Article XI. Telecommunications towers and facilities).
- (55) Telephone exchanges.
- (56) Toys and games (manufacturing).
- (57) Umbrellas, parasols and canes (manufacturing).
- (58) Other uses determined by the city council to be of similar character to and compatible with the above uses.

(e) Permitted accessory uses. The following uses shall be permitted as accessories to principal uses in the restricted industrial districts:

- (1) Residential quarters for bona fide caretakers or watchmen and their families.
- (2) Food service facilities expressly designed for the use of an establishment or group of establishments located in the district.
- (3) Recreational facilities for employees of establishments in the district.
- (4) Care centers for employer-sponsored child day care when located on the same property as the primary industrial use.
- (5) Retail stores, not including warehouse sales, planned and built as part of manufacturing or processing operation, dealing in the products produced in such operations, intended primarily for the exhibition and promotion of those products as well as their sale.
- (6) Warehouses and storage facilities, except as prohibited in Subsection 35.1-39(c) above; manufacturing uses, except as prohibited in Subsection 35.1-39(c) above, meeting other regulations of this section; wholesale establishments.
- (f) Uses permitted by conditional use permit. The following uses shall be permitted as conditional use permit in restricted industrial districts under the regulations of Section 35.1-15 and Article X of this ordinance:
  - (1) Heliports, helistops and STOL-ports; provided, that such facilities meet all applicable federal, state and local regulations and are located at least one-half (1/2) mile from any residential district.
  - (2) Motels and hotels.
  - (3) Restaurants (serving wholly within an enclosed building, with only incidental carry-out service.)
  - (4) Public and community recreation facilities.
  - (5) Arenas, auditoriums or stadiums.
- (g) Standards.
  - (1) Height regulations. The height regulations shall be the same as those required for a business B-4 district, Section 35.1-37.
  - (2) Yards. The yard requirements shall be the same as those of a business B-5 district, Section 35.1-38.
  - (3) Area regulations. No tract of land less than two (2) acres shall be placed in this zoning category; however, tracts already zoned "I-1" may be extended in increments of any size.
- (h) Signs. Signs shall be permitted as follows:
  - (1) Signs as permitted in residential and limited business districts.
  - (2) Signs announcing the use of the lot and the business name of the business occupying the lot, subject to the following restrictions:
    - a. No more than one (1) sign shall be permitted on frontage of each public road bordering the property.
    - b. The total area of such signs shall not exceed one (1) square foot for each five (5) linear feet of such frontage, but not to exceed one hundred (100) square feet in any case.
  - (3) Direction signs to main entrance, not to exceed two (2) per entrance nor to exceed five (5) square feet of area for each such sign.
  - (4) One (1) sign advertising real estate, not to exceed thirty-two (32) square feet in area, may be erected only on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. These signs shall be removed immediately following the sale or rental of

the property. One (1) construction sign, not exceeding thirty-two (32) square feet may be erected on each construction project. This sign shall not be erected until construction has actually begun and shall be removed as soon as the building is substantially complete.

(5) Additional temporary signs may be permitted as regulated by Section 35.1-26(d).

(6) Sign illumination: When any sign is lighted in this district, such lights shall be enclosed in the sign, shaded or indirect so that the source of illumination is not visible and in no way interferes with the vision of motorists or with neighboring residents. Only white illumination shall be used, and no flashing (on-and-off) sign simulating movement shall be permitted. No fluorescent paint or other preparation can be used for high reflection.

(i) Parking requirements.

Off-street parking and loading as required and regulated by Section 35.1-25 of this ordinance. (Ord. No. O-80-338, § 1, 11-11-80; Ord. No. O-82-078, § 1, 5-11-82; Ord. No. O-88-323, § 1, 12-13-88; Ord. No. O-89-104, § 1, 5-9-89; Ord. No. O-89-201, § 1, 7-11-89; Ord. No. O-95-304, 11-15-95; Ord. No. O-97-246, 12-9-97)

### **Sec. 35.1-40. Light industrial districts (I-2).**

(a) Intent. This district is intended to provide for industrial uses of a variety of types which produce relatively low levels of smoke, smell, noise light, dust and other nuisances. These areas would contain many of the same types of activity as the restricted industrial districts, but lower development standards would be permitted. In general, operations are appropriate in this district which: (1) do not involve nuisances discernible at the lot line; and (2) do not deal with large volumes of customers on a continuous basis throughout the day. No use shall be allowed in this district unless listed below as a use permitted by right, as a permitted accessory use or as a use permitted by conditional use permit, provided, however, that any such permitted use existing prior to December 13, 1988, may be enlarged or expanded, but not relocated, so long as it meets all other applicable requirements of this chapter. Any such use shall not be subject to any of the limitations or other regulations prescribed for non-conforming uses elsewhere provided in this chapter.

(b) Uses permitted by right. The following uses shall be permitted in light industrial districts subject to the regulations of Section 35.1-14.

(1) Uses permitted by right in restricted industrial districts (I-1) (except for an office building which is not directly related to an industrial activity).

(2) Adhesive products (manufacturing).

(3) Armories.

(4) Artisans and craft work.

(5) Automobile and truck parts manufacturing.

(6) Automobile parking garage, repair shop or parking lot subject to approval by the city council as provided by other ordinances of the city.

(7) Bakery goods (manufacturing).

(8) Battery (manufacturing).

(9) Blueprinting and photostating establishments.

(10) Bill boards subject to the regulations of Section 35.1-26.1.

(11) Bottling and beverage works.

(12) Bookbinding.

(13) Box (manufacturing).

(14) Broom and brush (manufacturing).

(15) Bus and other transit stations.

(16) Cameras and other photographic equipment (manufacturing).

- (17) Candy(manufacturing).
- (18) Car pen try and cabi net mak ing shops.
- (19) Cateringestablishments.
- (20) Ceramicproducts(manu facturing).
- (21) Chemicalapparatus(manufacturing).
- (22) Coffee and pea nut roast ing.
- (23) Commercialgreenhouses.
- (24) Communicationsystems service (manu facturing andwholesale).
- (25) Computercenters.
- (26) Confection(manufacturing).
- (27) Cosmetics(manufacturing).
- (28) Dataprocessing service.
- (29) Dair ies and/or pas teur iz ing plants.
- (30) De posi to ries for the stor age of of fice rec ords, mi cro film or com puter tapes.
- (31) Die cast ing.
- (32) Distributioncenter.
- (33) Drugs(manufacturing).
- (34) Drycleaningestablishments.
- (35) Dyeingestablishments.
- (36) Electricalappliances(manufacturingandfabri cation).
- (37) Electricalequip ment (manu facturingandfabri cation).
- (38) Electroniccomponentsandinstru ments (manu facturingandfabri cation).
- (39) Electroplating.
- (40) Extracts, food and fla vor (manu fac tur ing).
- (41) Fence(manufacturing).
- (42) Food whole sale.
- (43) Food prod ucts (manu fac tur ing) other than fish, sau er kraut, vine gar, or yeast, or the re fining or ren der ing of fats or oils.
- (44) Furni ture and fix tures (manu facturing).
- (45) Glass prod ucts (manu fac tur ing).
- (46) Gov ern ment build ings used ex clu sively by the city, county, state or fed eral gov ern ment for public service.
- (47) Hard ware and tools (manu fac tur ing).
- (48) Ice, natu ral and dry manu fac tur ing.
- (49) Ice cream (manu fac tur ing).
- (50) Ink products (manu fac tur ing).
- (51) Instru ments, profes sional, sci en tific and con trolling (manu fac tur ing).
- (52) Insulatingmaterial(manufacturing).
- (53) Jewelry(manufacturing).
- (54) Labora to ries (research and test ing).
- (55) Laboratoryapparatus(manufacturing).
- (56) La tex (fabri ca tion, not includ ing paint).
- (57) Laun dry plants.
- (58) Leather prod ucts (manu fac tur ing, not to in clude tan ning).
- (59) Linensupplyestablishments.

- (60) Lithographing.
- (61) Luggage (manufacturing, not to include tanning).
- (62) Machinery and machines, household and office (manufacturing).
- (63) Machine shops.
- (64) Machine tools, light (manufacturing).
- (65) Medical equipment (manufacturing).
- (66) Metal finishing.
- (67) Metal products and machinery, medium and light (manufacturing and fabrication).
- (68) Milk and dairy products (processing and distribution).
- (69) Modular and mobile homes (manufacturing).
- (70) Monument works and statuary (production).
- (71) Motorcycles (manufacturing and fabrication).
- (72) Musical instruments (manufacturing).
- (73) Motor freight terminals.
- (74) Moving and storage establishments.
- (75) Novelty products (manufacturing).
- (76) Off-street parking garages and lots incidental to industrial activities.
- (77) Office, general, directly related to industrial activities.
- (78) Optical equipment (manufacturing).
- (79) Orthopedic and medical appliances (manufacturing).
- (80) Packaging and paper products manufacturing from previously prepared materials.
- (81) Perfumes (manufacturing).
- (82) Pharmaceuticals (manufacturing).
- (83) Plastics (fabrication).
- (84) Photoengraving.
- (85) Photography film (manufacturing and processing).
- (86) Polish (manufacturing).
- (87) Porcelain enamel products (manufacturing and fabrication).
- (88) Pottery and china ware (manufacturing).
- (89) Printing and publishing.
- (90) Radio and television studios and stations, provided that studios produce no exterior electromagnetic effect and are sound proofed from adjoining properties.
- (91) Retail/wholesale display rooms for sales at industrial establishments of products manufactured on site and other products of the corporation provided the display area does not exceed fifteen (15) per cent of the total floor area.
- (92) Rope, fibrous (manufacturing).
- (93) Rubber fabrication.
- (94) Rugs (manufacturing).
- (95) Shoe manufacturing.
- (96) Signs (manufacturing).
- (97) Silverware, plate and sterling (manufacturing and fabrication).
- (98) Spices (manufacturing and processing).
- (99) Sporting and athletic goods (manufacturing).
- (100) Starch (manufacturing).
- (101) Static transformer stations, transmission lines, gas and water mains, conduits for the transmission of electric energy including telephone, telegraph, and non commercial radio and television poles and appurtenances thereto.

- (102) Telephone exchanges.
- (103) Textile mills products (manufacturing and fabrication).
- (104) Tobacco products (manufacturing).
- (105) Toiletries (manufacturing).
- (106) Tool, die or pattern making shops.
- (107) Toys and games (manufacturing).
- (108) Trade expositions.
- (109) Twine, fibrous (manufacturing).
- (110) Union halls.
- (111) Warehousing and storage, except sand yards, gravel yards, coal yards, railroad yards, automobile wrecking yards, junk yards, or the storage of commodities prohibited by the fire code.
- (112) Wax and wax products (manufacturing).
- (113) Wearing apparel (manufacturing).
- (114) Welding and blacksmith shops.
- (115) Wholesale establishments with a building area of five thousand (5,000) square feet or more. A portion of the establishment may be used for retail display area, provided the retail sales (a) do not exceed fifteen (15) per cent of the total building area, and (b) are not used for second hand (consignment) merchandise or auction centers and do not require outdoor storage such as lumber yards, wholesale warehouses for the sale of motor vehicles, farm, or heavy construction equipment.
- (116) Window blinds, shades and awnings (manufacturing).
- (117) Wire (manufacturing).
- (118) Wood products (manufacturing).
- (119) Wool processing.
- (120) Other uses determined by the city council to be of similar character to and compatible with the above uses.

(c) Permitted accessory uses. The following uses shall be permitted as accessories to permitted principal uses in light industrial districts:

- (1) Uses permitted and as regulated as accessory uses in restricted industrial districts (1-1).
- (2) Other uses determined by the city council to be customarily accessory to uses permitted in this district.

(d) Uses permitted by conditional use permit. The following uses shall be permitted as conditional use permit in light industrial districts under the regulations of Section 35.1-15 and Article X of this ordinance:

- (1) Arenas, auditoriums or stadiums.
- (2) Business incubator.
- (3) Circus, carnival or other similar transient enterprises.
- (4) Drive-in theaters.
- (5) Heliports, helistops and STOL-ports; provided, that such facilities meet all applicable federal, state and local regulations and are located at least one-half (1/2) mile from any residential district.
- (6) Public and community recreation facilities.
- (7) Radio and television transmission towers.
- (8) Sanitary or solid waste management facility, private establishment of a new facility.
- (e) Standards. See Section 35.1-39.

(f) Signs. Signs shall be permitted as follows:

- (1) Signs as permitted in residential and limited business districts.
- (2) Signs announcing the use of the lot and the business name of the business occupying the lot, subject to the following restrictions:

- a. No more than one (1) sign shall be permitted on frontage of each public road bordering the property.

b. The total area of such signs shall not exceed one (1) square foot for each five (5) linear feet of such frontage, but not to exceed one hundred (100) square feet in any case.

(3) Direction signs to main entrance, not to exceed one (1) per entrance nor to exceed five (5) square feet of area for each such sign.

(4) One (1) sign advertising real estate, not to exceed thirty-two (32) square feet in area, may be erected only on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. These signs shall be removed immediately following the sale or rental of the property. One (1) construction sign, not exceeding thirty-two (32) square feet may be erected on each construction project. This sign shall not be erected until construction has actually begun and shall be removed as soon as the building is substantially complete.

(5) Additional temporary signs may be permitted as regulated by Section 35.1-26(d).

(6) Sign illumination. When any sign or billboard is lighted in this district, such lights shall be enclosed in the sign, shaded or indirect, so that the source of illumination is not visible and in no way interferes with the vision of motorists or with neighboring residents. Only white illumination shall be used, and no flashing (on- and- off) sign simultaneous movement shall be permitted. No fluorescent paint or other preparation can be used for high reflection.

(g) Parking requirements. Off-street parking and loading as required and regulated in Section 35.1-25 of this ordinance. (Ord. No. O-78-352, 12-12-78; Ord. No. O-80-338, § 1, 11-11-80; Ord. No. O-82-188, § 1, 9-14-82; Ord. No. O-87-210, § 2, 9-8-87; Ord. No. O-88-323, § 1, 12-13-88; Ord. No. O-89-104, § 1, 5-9-89; Ord. No. O-90-126, 5-8-90; Ord. No. O-92-142, 5-12-92; Ord. No. O-95-304, 11-15-95; Ord. No. O-98-034, 3-10-98)

#### **Sec. 35.1- 41. Heavy industrial districts (I-3).**

(a) Intent. These districts are intended to provide for industrial and other activities which produce the highest levels of nuisance permitted under federal and state air and water pollution regulations. Generally, the objective of this ordinance is to limit nuisances and any other objectionable characteristics to those which are not discernible beyond the boundary of the district. No use shall be allowed in this district unless listed or defined below as a use permitted by right, as a permitted accessory use or as a use permitted by conditional use permit, provided, however, that any such permitted use existing prior to December 13, 1988, may be enlarged or expanded, but not relocated, so long as it meets all other applicable requirements of this chapter. Any such use shall not be subject to any of the limitations or other regulations prescribed for non-conforming uses elsewhere provided in this chapter.

(b) Uses prohibited. The following uses are prohibited in heavy industrial districts:

(1) Abattoir or slaughter house, except for poultry which is incidental to a commercial use permitted by this ordinance.

(2) Acetylene gas manufacture on a commercial scale.

(3) Acid manufacture, such as sulphurous, sulphuric, nitric, picric, hydrochloric or other corrosive or offensive acid manufacture, or their use or storage, except on a limited scale as accessory to a permitted industry.

(4) Asphalt roofing, tar roofing or water proofing manufacture.

(5) Bleaching powder, ammonia or chlorine manufacture.

(6) Celluloid or pyroxylyene manufacture or processing; the manufacture of explosive or highly inflammable cellulose products.

(7) Coal tar manufacture or tar distillation.

(8) Creosote manufacture or creosote treatment.

(9) Distillation of bones.

(10) Fat rendering.

(11) Fertilizer manufacture or the compounding of fertilizers on a commercial scale.

(12) Fire works or explosives manufacture, nitration process, the loading of explosives or their storage in bulk.

(13) Fish smoking or curing or processes involving recovery from fish or animal of fall.

(14) Gas manufacture, or gas storage in quantity exceeding five hundred thousand (500,000) cubic feet within one hundred (100) feet of any lot line; or in quantity exceeding two hundred (200) cubic feet if the pressure is greater than one hundred (100) pounds per square inch.

(15) Glue or size manufacture.

(16) Horn processing.

(17) Lime, gypsum, plaster or plaster of paris manufacture.

(18) Match manufacturing.

(19) Office uses which are not directly related to an industry.

(20) Petroleum manufacturing.

(21) Potash manufacture.

(22) Residential uses, including those of an institutional nature - institutional residential uses being those associated with churches or religious organizations, schools, hospitals, health or adult care facilities but (1) excluding residences of bona fide caretakers and their families, and (2) any residence constructed prior to and occupied as a residence since December 12, 1978. The limitations of Section 35.1-27, nonconforming uses, notwithstanding, such residences, in the event they are damaged or destroyed due to fire or other unforeseen circumstances (but not including neglect), may be rebuilt in their original location with substantially the same height and exterior dimensions, provided that they have frontage on an improved city street and that reconstruction is completed to the point that a new certificate of occupancy is issued within twenty-four (24) months from the date of damage or destruction.

(23) Retail uses, unless specifically permitted under Section 35.1-41(c).

(24) Sanitary or solid waste management facilities, private, except as otherwise permitted under Section 35.1-41(e).

(25) Schools, hospitals, clinics and similar institutions.

(26) Soda, soda ash, caustic soda manufacture.

(27) Starch, glucose and dextrine manufacture.

(28) Turpentine, varnish or shellac manufacture.

(29) Any other use or purpose which will create conditions of smoke, fumes, noise, odors or dust detrimental to the health, safety and general welfare of the community.

(c) Uses permitted by right. The following uses shall be permitted by right in heavy industrial districts subject to the regulations of Section 35.1-14 of this ordinance:

(1) Any manufacturing or industrial use which is not specifically prohibited by Section 35.1-41(b) above, provided, however, that any such prohibited use legally existing at the time of enactment of this chapter shall not be subject to any of the limitations or other regulations prescribed for non-conforming uses elsewhere provided in this ordinance.

(2) Contractor and construction shops and yards.

(3) Retail/wholesale display rooms for sales at industrial establishments of products manufactured on site and other products of the corporation provided the display area does not exceed fifteen (15) per cent of the total floor area.

(4) Truck painting and body repair shops.

(5) Wholesale display rooms within industrial establishments as regulated by Section 35.1-40(b)(115).

(d) Permitted accessory uses. Uses not specifically prohibited by Subsection (b) above are permitted as accessory uses in heavy industrial districts.

(e) Uses permitted by conditional use permit. The following uses shall be permitted by conditional use permit under the regulations of Section 35.1-15 and Article X of this ordinance:

(1) Automobile service stations.

(2) Circus, carnival or other similar transient enterprise.



- (3) Food service facilities incidental to one or a group of permitted uses.
- (4) Sanitary or solid waste management facility, private establishment of a new facility.
- (5) Uses as determined appropriate by the city council.
- (f) Standards. See Section 35.1-39.
- (g) Signs. Signs, as regulated in I-1 industrial district shall be permitted as follows:
  - (1) Signs as permitted in residential and limited business districts.
  - (2) Signs announcing the use of the lot and the business name of the business occupying the lot, subject to the following restrictions:
    - a. No more than one (1) sign shall be permitted on frontage of each public road bordering the property.
    - b. The total area of such signs shall not exceed one (1) square foot for each five (5) linear feet of such frontage but not to exceed one hundred (100) square feet in any case.
    - c. The area of the advertising surface erected on any structure shall not be less than one hundred seventy-five (175) square feet nor more than six hundred seventy-five (675) square feet.
    - d. All other billboards located in this district shall be located no less than five hundred (500) feet apart and shall be subject to the size requirements in paragraph c. above and the illumination requirements in Section 35.1-41, (g) (3), of this ordinance.
    - e. The spacing provisions cited above shall not apply to billboards separated by buildings or other obstructions in such a manner that only one (1) sign located within the required spacing distance is visible from the road at any one time.
  - (3) Sign illumination. When any sign or billboard is lighted in this district, such lights shall be enclosed in the sign, shaded or indirect so that the source of illumination is not visible and in no way interfere with the vision of motorists or with neighboring residents. Only white illumination shall be used and no flashing (on- and- off) sign simulating movement shall be permitted. No fluorescent paint or other preparation can be used for high reflection.
- (h) Parking requirements. Off-street parking and loading space shall be provided as required in Section 35.1-25; provided, however, the requirements of said section shall not apply in connection with buildings located in the first fire district as described in the city code. (Ord. No. O-80-338, § 1, 11-11-80; Ord. No. O-82-188, § 1, 9-14-82; Ord. No. O-88-323, § 1, 12-13-88; Ord. No. O-89-104, § 1, 5-9-89; Ord. No. O-92-142, 5-12-92; Ord. No. O-98-034, 3-10-98; Ord. No. O-02-011, 1-15-02)

## ARTICLE IX. SPECIAL DISTRICTS

### Sec. 35.1- 42.1. Planned Unit Developments

(a) Intent. It is the intent of the Planned Unit Development (PUD) section to provide flexible land use and design regulations through the use of performance criteria so that small-to-large scale neighborhoods or portions thereof may be developed within the City that incorporate a variety of residential types and contain both individual building sites and common property which are planned and developed as a unit. Such a planned unit is to be designed and organized so as to be capable of satisfactory use and operation as a separate entity without necessarily needing the participation of other building sites or other common property in order to function as a neighborhood. This section specifically encourages innovations in residential development so that the growing demands for housing at all economic levels may be met by greater variety in type, design, and siting of dwellings and by the conservation and more efficient use of land in such developments.

This section recognizes that while the standard zoning function (bulk) and the subdivision function (platting and design) are appropriate for the regulation of land use in areas or neighborhoods that are already substantially developed, these controls represent a type of preregulation, regulatory rigidity and uniformity which may be inimical to the techniques of land development contained in the Planned Unit Development concept. Thus, where PUD techniques are deemed appropriate by the City Council, all dimensional specifications, setback requirements, buffering requirements, landscaping requirements, location of off-street parking facilities and location of recreation facilities elsewhere in this ordinance are herein replaced by an approval process in which an approved site plan becomes the basis for continuing land use controls.

(b) Objectives. In order to carry out the intent of this section, a PUD shall achieve the following objectives:

- (1) A maximum choice in types of environment; occupancy tenure (e.g., cooperatives, individual ownership, condominium, leasing); types of housing; lot sizes; and community facilities available to existing and potential residents at all economic levels.
- (2) More usable open space and recreation areas.
- (3) The preservation of trees, outstanding natural topography and geologic features and prevention of soil erosion.
- (4) A creative use of land and related physical development which allows an orderly transition of undeveloped land to urban areas.
- (5) An efficient use of land resulting in smaller networks of utilities and streets, thereby lowering housing costs.
- (6) A development pattern in harmony with the objectives of the Lynchburg General Plan.
- (7) A more desirable environment than would be possible through the strict application of other articles of the Zoning Ordinance.

(c) Definitions. For purposes of this section, a Planned Unit Development is defined as follows:

- (1) Any use herein before permitted by right in the R-1, R-2 and R-3 residential districts.
- (2) Planned Unit Developments containing town houses, cluster housing, and apartment-type dwelling units.
- (3) Planned Unit Developments containing multiple-unit condominiums or other cooperative residential developments. (Ord. No. O-83-154, § 1, 7-12-83)

#### **Sec. 35.1-42.2. General Requirements for Planned Unit Developments.**

(a) Minimum Area. Generally, the minimum area required to qualify for a Planned Unit Development shall be five (5) contiguous acres of land. Where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this article, the City Council, upon recommendation of the Planning Commission, may consider projects with less acreage.

(b) Ownership. The tract of land for a project may be owned, leased, controlled or under option by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in the project or by the property owner's authorized agent with the power of attorney to sign the petition. In case of multiple ownership, the approved plan shall be binding on all owners.

(c) Location of Planned Unit Developments. A Planned Unit Development may be established by a conditional use permit in any residential or business district of the City where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this article and is consistent with the General Plan of the City of Lynchburg.

(d) Management and Ownership of Common Open Space Property and Facilities in Planned Unit Developments. All common open space properties and facilities shall be preserved for their intended purpose as expressed in the approved plan. The developer shall provide for the establishment of a homeowner's association of all individuals or corporations owning property within the Planned Unit Development to ensure the maintenance of all common open space properties and facilities. The homeowner's association shall be established pursuant to Section 35.1-56C. of the Code.

(e) Fee Schedule for Planned Unit Development Approval. The following fees shall apply for the examination and approval or disapproval of every Planned Unit Development reviewed by the City of Lynchburg:

Sketch Plan Approval—\$100

Preliminary Site Plan Approval—\$75

Final Site Plan Approval—\$25

Erosion Sediment Control Plan Approval - See Erosion Sediment Control Ordinance

Subdivision Plat Approval - See Subdivision Ordinance (Ord. No. O-83-154, § 1, 7-12-83)

**Sec. 35.1- 42.3. Per mit ted Uses in Planned Unit De vel op ments.**

All uses within an area designated as a Planned Unit Development are determined by the provisions of this section and the approved plan of the project concerned.

(a) Residential Uses. Residences may be of any variety and type. In developing a balanced community, the use of a variety of housing types shall be deemed to be most in compliance with the intent of t his article. However, at least twenty (20) percent of the total number of dwelling units within any Planned Unit Development shall be in single-family, detached structures. Upon receipt of a recommendation from the Planning Commission, City Council may reduce or eliminate the mandatory single-family detached structure requirement.

(b) Accessory Commercial, Service and Other Nonresidential Uses. Commercial, service and other nonresidential uses may be permitted (or required) where such uses are designed to serve the residents of the Planned Unit Development. The following proportions are deemed to be in keeping with the overall intent of the Planned Unit Development concept:

(1) Where the Planned Unit Development contains one hundred (100) or more dwelling units, a maximum of twenty-four hundred (2,400) square feet of floor area for every one hundred (100) dwelling units may be used for limited commercial and/or service purposes. Such commercial or service area may be in separate buildings or incorporated within two-family or multifamily structures or in a suitable combination of these alternatives.

(2) Where the Planned Unit Development contains three hundred (300) or more dwelling units, a maximum of one-half (1/2) acre of land for every one hundred (100) dwelling units may be used for commercial and/or service purposes.

(c) [Accessory and Associate Uses.] Customary accessory or associated uses such as private garages, storage spaces, recreational and community activities, churches, and schools shall also be permitted as appropriate to the Planned Unit Development. (Ord. No. O-83-154, § 1, 7-12-83)

**Editor's note**—The bracketed wording in § 35.1-42.3.c. above has been supplied by the editor for consistency and to facilitate the use of said section.

**Sec. 35.1-42.4. Residential Density in Planned Unit Developments.**

(a) Basic Density Calculations. The total number of dwelling units permitted shall be determined by regulations adopted by City Council pertaining to density within Planned Unit Developments.

(b) Density Bonus for Design Elements. The number of dwelling units permitted may be increased to a maximum total of twenty-five (25) percent in accordance with regulations adopted by City Council pertaining to density bonus for design within Planned Unit Developments. (Ord. No. O-83-154, § 1, 7-12-83)

**Sec. 35.1-42.5. Planned Unit Development Application Procedure.**

Before any permit shall be issued for the erection of a permanent building in a proposed Planned Unit Development, and before any subdivision plat or any part thereof may be filed in the Office of the Clerk of the Circuit Court, the developer or his authorized agent shall apply for and secure approval of such Planned Unit Development in accordance with the following procedures:

(a) Preapplication Conference. A meeting or meetings will be held between the applicant and the staff of the Planning Division to provide for a review of the Planned Unit Development regulations and to discuss the proposed plans of the applicant.

(b) Application for Sketch Plan Approval.

(1) In order to allow the Planning Commission and the developer to reach an understanding on basic design requirements prior to detail design investment, the developer shall submit a sketch plan (prepared by a Virginia registered architect, landscape architect, or engineer with seal and signature affixed to the plan) of his proposal to the Lynchburg Planning Division.

The sketch plan shall be approximately to scale, though it need not be to the precision of a finished engineering drawing; and it shall clearly show the following information:

- a. The location of the various uses and their areas in acres;
- b. The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private;
- c. Delineation of the various residential areas, indicating for each area its general extent, size, and composition in terms of total number of dwelling units; approximate percentage allocations by dwelling unit type (i.e., single-family detached, duplex, townhouse, garden apartments, high-rise); and general description of the intended market structure (i.e., luxury, middle-income, moderate-income, elderly units, family units, etc.); plus a calculation of the residential density as stated in Section 35.1-42.4 above for each area;
- d. The interior open space system;
- e. The overall drainage system including storm water management;
- f. If grades exceed three (3) percent or portions of the site have a moderate to high susceptibility to erosion or a moderate to high susceptibility to flooding, a topographic map showing contour intervals of not more than five (5) feet of elevation shall be provided along with an overlay outlining the above susceptible soil areas, if any;
- g. Principal ties to the community at large with respect to transportation, water supply, and sewage disposal;
- h. General description of the provision of other community facilities such as schools, fire protection services, and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated;
- i. A location map showing uses, zoning, and ownership of abutting land;

j. An architectural rendering of each structure type proposed for the project shall be prepared to scale.

(2) In addition, the following documentation shall accompany the sketch plan:

- a. Evidence of how the developer's particular mix of land uses meets existing community demands;
- b. Evidence that the proposal is compatible with the goals of the City's General Plan;
- c. General statement as to how common open space is to be owned and maintained;
- d. If the development is to be staged, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan of this section shall show the intended total project;
- e. A sample of the proposed exterior material including color and texture.

(3) The City Planner shall review all materials submitted and notify the applicant when the application for sketch plan approval is complete. Upon determination that the application is complete, the City Planner shall set a date for review by the Technical Review Committee and the Design Review Board. The developer or his representative is required to attend both the meeting of the Technical Review Committee and the Design Review Board.

The Technical Review Committee shall consider the project's compliance with City Codes and regulations and the ability of the City to provide service to this proposed project.

The Design Review Board's review shall be restricted to the following:

- a. Aesthetic and architectural relationships with the surrounding communities;
- b. Conclusions regarding on-site amenities and improvements;
- c. On-site arrangement of improvements and structures;
- d. Consistency with the Housing Assistance Plan for Federal and/or State funded projects.

(4) Within thirty (30) days of the referral, the Technical Review Committee and the Design Review Board shall submit a report to the City Planner noting the feasibility and adequacy of those design elements under their sphere of interest. This report need only concern itself with general conceptual acceptance or disapproval, as the case may be, and in no way implies any future acceptance or rejection of detailed design as will be required in the later site plan review state. Both the Technical Review Committee and the Design Review Board may state in their reports any other consideration of acceptance on their parts.

(5) Upon receipt of the reports from the Technical Review Committee and the Design Review Board, the City Planner shall set a date for a public hearing by the Planning Commission for the purpose of considering a conditional use permit for a Planned Unit Development for the applicant's plan in accordance with the procedures established for amendments to the Zoning Ordinance and the Official Zoning Map in Section 35.1-17B., including the proportions of a sign and notice to the surrounding property owners.

(6) The Planning Commission shall review the sketch plan and its related documents, and shall render either a favorable recommendation to the City Council or an unfavorable report.

a. A favorable recommendation shall include a recommendation to the City Council that the conditional use permit for the Planned Unit Development be approved. The recommendation shall be based on the following findings which shall be included as part of the report:

- 1. The proposal conforms to the General Plan.
- 2. The proposal meets the intent and objectives of a Planned Unit Development as expressed in subsections (a) and (b) of Section 35.1-42.1.

3. The proposal is conceptually sound in that it meets a community need and it conforms to accepted design principals in the proposed functional roadway system, land use configuration, open space system, drainage system, and scale of the elements both absolutely and to one another.

4. There are adequate services and utilities available or proposed to be made available in the construction of the development.

5. A recommendation is made to either approve or deny an increase in residential density. A favorable recommendation will include the amount of increase but not to exceed twenty-five (25) percent. In either case, the reasons for the recommendation must be clearly stated.

b. An unfavorable recommendation shall state clearly the reasons therefore and, if appropriate, point out to council and the applicant what might be necessary in order to receive a favorable recommendation.

(7) Upon receipt of the report from the Planning Commission, City Council shall set a date and conduct a public hearing for the purpose of considering a conditional use permit for a Planned Unit Development for the applicant's plan. If City Council grants the conditional use permit, the zoning map shall be so notated by an appropriate symbol to show the existence of an approved Planned Unit Development. City Council, in order to fully protect the public health, safety and welfare of the community, may attach to its zoning resolution any additional conditions or requirements for the applicant to meet. Such requirements may include, but are not limited to, visual and acoustical screening; land use mixes; order of construction and/or occupancy; circulation systems both vehicular and pedestrian; availability of sites within the area for necessary public services such as schools, firehouses, and libraries; protection of natural and/or historic sites; and other such physical or social demands. City Council shall state its findings at this time with respect to the land use intensity or dwelling unit density as called for in Section 35.1-42.4. (Ord. No. O-83-154, § 1, 7-12-83)

#### **Sec. 35.1- 42.6. Planned Unit Development Preliminary Site Plan Procedure.**

The conditional use permit for a Planned Unit Development shall be conditioned upon the following:

- (a) Securance of final site plan approval in accordance with the procedures set forth in Section 35.1-42.5.
- (b) Compliance with all additional conditions and requirements as may be set forth by City Council in its resolution granting the conditional use permit.
- (c) Application for preliminary site plan approval shall be made to the Planning Division and shall be accompanied by the following information prepared by a licensed engineer, architect and/or landscape architect:

(1) [Area map.] An area map showing applicant's entire holding in the immediate vicinity; that portion of the applicant's property under consideration; and all properties, subdivisions, streets, and easements within five hundred (500) feet of applicant's property.

(2) [Topographic map.] A topographic map showing contour intervals of not more than five (5) feet of elevation.

- (3) [Preliminary Site Plan.] A preliminary site plan (ten (10) copies) including the following information:
  - a. Title of drawing, including name and address of applicant;
  - b. North point, scale and date;
  - c. Boundaries of the property plotted to scale;
  - d. Existing watercourses;
  - e. A site plan showing location, proposed use, and height of all buildings; location of all parking and truck-loading areas with ingress and egress drives thereto; location and proposed development of all open

spaces including parks, playgrounds, and open reservations; location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, detention ponds, retaining walls and fences; location and sizes of all sewer and water lines and connections; location and size of all signs; location and proposed development of buffer areas; location and design of lighting facilities; and the amount of building area proposed for nonresidential uses, if any.

(4) [Preliminary Erosion and Sediment Control Plan.] A preliminary erosion and sediment control plan prepared according to the City of Lynchburg's Erosion and Sediment Control Ordinance including storm water calculations.

(5) Factors for Consideration. The Planning Division shall refer to the Technical Review Committee for review of the preliminary site plan which shall include, but not be limited to, the following considerations:

- a. Adequacy and arrangement of vehicular traffic access and circulation including intersections, road widths, channelization structures and traffic controls;
- b. Adequacy and arrangement of pedestrian traffic access and circulation including separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic and pedestrian convenience;
- c. Location, arrangement, appearance and sufficiency of off-street parking and loading;
- d. Location, arrangement, size and design of buildings, lighting, and signs;
- e. Relationship of the various uses to one another and their scale;
- f. Adequacy, type, and arrangement of trees, shrubs, and other landscaping constituting a visual and/or a noise deterring buffer between adjacent uses and adjoining lands;
- g. In the case of apartment houses or multiple dwellings, the adequacy of usable open space for playgrounds and informal recreation;
- h. Adequacy of storm water and sanitary sewer waste disposal facilities;
- i. Adequacy of structures, roadways and landscaping in areas with moderate-to-high susceptibility to flooding and ponding and/or erosion;
- j. Protection of adjacent properties against noise, glare, unsightliness, or other objectionable features;
- k. Adequacy of proposed tire protection measures;
- l. Conformance with other specific conditions imposed by City Council which may have been stated in the resolution granting the conditional use permit.

In its review, the Technical Review Committee may consult with other officials, as well as with representatives of Federal and State agencies.

The Technical Review Committee may also require such additional provisions and conditions that are necessary to comply with current City codes.

(6) Action on Preliminary Site Plan Application. Within forty-five (45) days of the receipt of the application for preliminary site plan approval, the Technical Review Committee shall act on it. If no decision is made within said forty-five-day period, the preliminary site plan shall be conditionally approved. The Technical Review Committee action shall be in the form of a written report to the City Planner and the applicant stating whether or not the site plan is conditionally approved. A copy of the Committee's report shall be forwarded to the Planning Commission and the City Council.

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**\*Editor's note**—The bracketed information contained in subsection 35.1-42.6 (c) 1.—4. has been added by the editor with the consent of the city.

The Technical Review Committee's statement may include recommendations as to desirable revisions to be incorporated in the final site plan of which conformance therewith shall be considered a condition of approval. Such recommendations, however, shall be limited to siting and dimensional details within general use areas; and shall not significantly alter the sketch plan as it was approved in the conditional use permit proceedings. If the preliminary site plan is disapproved, the Technical Review Committee's statement shall contain the reasons for such finding. In such a case, the Committee may recommend further study of the site plan and resubmission of the preliminary site plan to the Planning Division after it has been revised or redesigned.

No modification of existing stream channels, filling of land with a moderate-to-high susceptibility to flooding, grading, or removal of vegetation in areas with moderate-to-high susceptibility to erosion, or excavation for and construction of site improvements, shall begin until the developer has received preliminary site plan approval. Failure to comply shall be deemed as a violation of the Zoning Ordinance; and, where necessary, final site plan approval may require the modification or removal of unapproved site improvements.

(7) Request for Changes in Sketch Plan. If it becomes apparent during the development of the site plan that certain elements of the sketch plan, as approved by the City Council, are unfeasible and in need of significant modification, the applicant shall then present his solution to the Planning Division as his preliminary site plan in accordance with the above procedures. The Planning Division shall then determine whether or not the modified plan is still in keeping with the intent of the conditional use permit resolution. If a negative decision is reached, the site plan shall be considered disapproved. The developer may then, if he wishes, produce another site plan in conformance with the approved sketch plan. If an affirmative decision is reached, the Planning Division shall notify City Council stating all of the particulars of the matter and its reasons for feeling the project should be continued as modified. Preliminary site plan approval may then be given only with the consent of the City Council. Ord. No. O-83-154, § 1, 7-12-83)

#### **Sec. 35.1- 42.7. Planned Unit Development Final Site Plan Procedure.**

After receiving conditional approval from the Technical Review Committee on a preliminary site plan and tentative approval for all necessary permits subject to approval of the final site plan, the applicant may prepare his final detailed site plan and submit it to the Planning Division for final approval; except that if more than twelve (12) months have elapsed between the time of the Technical Review Committee's report on the preliminary site plan, and, if the Planning Division finds that conditions have changed significantly in the interim, the Planning Division may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.

The final detailed site plan shall conform substantially to the preliminary site plan that has received preliminary site plan approval. It should incorporate any revisions or other features that may have been recommended by the Technical Review Committee at the preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

(a) Action on the Final Detailed Site Plan Application. Within forty-five (45) days of the receipt of the application for final site plan approval, the Technical Review Committee shall render a decision to the applicant and so notify the City Council. If no decision is made within the forty-five- day period, the final site plan shall be considered approved.

(1) Upon approving an application, the City Planner and the City Engineer shall endorse their approval on a copy of the final site plan and shall forward it to the Superintendent of Inspections who shall then issue a building permit to the applicant provided the project conforms to all other applicable requirements.

(2) Upon disapproving an application, the City Planner shall so inform the Superintendent of Inspections. The City Planner shall also notify the applicant and City Council in writing of the Technical Review Committee's decision and its reasons for disapproval. A copy of the Committee's report may suffice for this notice.



(b) Staging:

(1) If the applicant wishes to stage his development and he has so indicated as per Section 35.1-42.5, he may submit only those stages he wishes to develop for site plan approval in accordance with his staging plan. Any plan which requires more than thirty-six (36) months to be completed shall be required to be staged, and a staging plan must be developed. At no point in the development of a planned unit development shall the ratio of nonresidential to residential acreage or the dwelling unit ratios between the several different housing types for that portion of the Planned Unit Development completed and/or under construction differ from that of the Planned Unit Development as a whole by more than twenty (20) percent.

(2) If the building permit for the initial construction authorized by a conditional use permit granted for a Planned Unit Development under these regulations has not been applied for and so granted within twelve (12) months after final site plan approval, the conditional use permit shall become void unless the following appeal procedures are followed and approval obtained. Prior to the aforesaid twelve- (12) month expiration, a six- (6) month extension may be applied for through the City Planning Commission. A second and final twelve- (12) month extension may be requested from City Council prior to the expiration of the six- (6) month administrative extension. After the initial building permit has been issued for construction, the developer may continue with construction of an approved project as long as he proceeds toward completion with reasonable care and diligence and is in accordance with the terms of the conditional use permit granted by City Council. (Ord. No. O-83-154, § 1, 7-12-83)

**Sec. 35.1- 42.8. Other regulations applicable to planned unit developments.**

(a) [Changes after initial construction and occupancy.] For the purposes of regulating, developing, and using property after initial construction and occupancy, any changes including setbacks and use shall be processed as a conditional use permit pursuant to the following procedures:

(1) Application for a conditional use permit for a change in the existing Planned Unit Development shall be completed and submitted to the Planning Division.

(2) The City Planner shall review the materials submitted and notify the applicant when the application is complete. Upon determination that the application is complete, the City Planner shall set a date for a public hearing by the Planning Commission for the purpose of considering a conditional use permit for a change in an existing Planned Unit Development in accordance with the procedures established for amendments to the Zoning Ordinance and the Official Zoning Map in Section 35.1-17B. including the sections on a sign and notice to the surrounding property owners.

(3) The Planning Commission shall consider the application and shall render either a favorable decision with modifications or an unfavorable decision. The Planning Commission shall clearly state the reasons for its decision.

It shall be noted, however, that properties lying in Planned Unit Developments are unique and shall be so considered by the Planning Commission when evaluating these requests; and maintenance of the intent and the function of the Planned Unit Development shall be of primary importance.

(b) Appeals:

(1) Appeals to the Planning Commission. An appeal may be taken to the Planning Commission by the property owner, developer, or representatives affected by any decision of the City Planner and/or Technical Review Committee during the preliminary and final site plan approval process. Such appeal shall be taken within twenty (20) calendar days after a decision of the City Planner and/or Technical Review Committee by filing a notice of appeal specifying the grounds therefor with the Secretary of the Planning Commission. The City Planner shall forthwith transmit to the Planning Commission all papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from.

The City Planner shall schedule a public hearing at the next regularly scheduled Planning Commission meeting on the application of appeal, give public notice thereof, as well as due notice to the parties in interest. The Planning Commission shall make a decision on the application for appeal within thirty (30) days of the hearing.

In exercising its powers, the Planning Commission may reverse or affirm, wholly or partly, or may modify a requirement, decision or determination appealed from. The concurring vote of four (4) members shall be necessary to reverse any decision of the City Planner and/or Technical Review Committee pertaining to the approval of the preliminary and/or final site plans in favor of the applicant. The Planning Commission shall keep minutes of its proceedings which shall be filed in the Office of the Planning Division, and the minutes shall be of public record.

(2) Appeals from Actions of the Planning Commission. Any person or persons jointly or individually aggrieved by a decision of the Planning Commission pertaining to a Planned Unit Development or any officer or department of the City of Lynchburg may present to City Council a petition specifying the grounds on which aggrieved within fifteen (15) calendar days after the filing of the decision in the Office of the Planning Division.

In exercising its powers, City Council may reverse or affirm, wholly or partly, or may modify a requirement, decision, or determination of the Planning Commission. The concurring vote of four (4) members shall be necessary to reverse any decision of the Planning Commission pertaining to a Planned Unit Development.

(3) Fees. In order to cover costs incurred by the City of Lynchburg incidental to reviewing, publishing and reporting facts concerning appeals on Planned Unit Developments, a fee of one hundred dollars (\$100.00) shall be paid to the City Collector for each appeal made.

(c) Lapse of Conditional Use Permit for Planned Unit Developments. If a building permit for construction of a Planned Unit Development authorized by a conditional use permit granted under these regulations has not been applied for and so granted within thirty-six (36) months of the granting of such conditional use permit, the conditional use permit shall become void unless the following appeal procedures are followed and approval obtained. Prior to the aforesaid thirty-six month expiration, a six month extension may be applied for through the Lynchburg Planning Commission. A second and final twelve-month extension may be requested from City Council prior to the expiration of the six-month Planning Commission extension. After the initial building permit has been issued for construction and construction has commenced, the conditional use permit in connection with the stages (phases) of the Planned Unit Development as shown on the approved site plan shall not lapse or expire even though construction may not have commenced within the specified time period for the later stages (phases) of the development.

(d) Subdivision Review and Approval. The developer shall plat the entire development as a subdivision pursuant Appendix B, Subdivision Ordinance of the Code of Ordinances, City of Lynchburg, 1981; however, Planned Unit Developments being developed in stages may be platted in the same stages.

(e) Financial Responsibility. No building permits shall be issued for construction within a Planned Unit Development until public improvements are installed or performance bond posted in accordance with the Subdivision Ordinance. (Ord. No. O-83-154, § 1, 7-12-83)

**\*Editor's note**—The bracketed information contained in paragraph (a) of § 35.1-42.8 above has been added by the editor for the purpose of consistency and to facilitate the use of said section.

### **Sec. 35.1- 43. Cluster commercial development (CCD).**

(a) Intent. These districts are intended to provide for flexibility in the planning of certain tracts of land, under single or multiple ownership, through the modification of certain lot, setback, and use restrictions. Developments under these regulations should provide for increased amenity, safety, and other public and private benefits, as well as reduced public and private costs. These districts are generally characterized by a

unified or planned clustering of development served by a common parking area with a common means of ingress and egress. These developments should be designed to decrease traffic congestion and reduce distractions from such sources as signs and artificial lighting.

(b) Prohibited uses. Within any business CCD district, no lot, building, or structure shall be used and no building shall be erected which is intended or designed to be used in whole or in part for any industrial or manufacturing purpose.

(c) Uses permitted. Uses permitted by right in the R-3 through B-5 districts will be permitted according to any mixture of land and/or building uses as shown on approved site development plan and/or in accordance with regulations contained herein.

(d) Permitted locations. Cluster commercial development districts may be established in accordance with the regulations of this section and Section 35.1-16 of this chapter in the following locations:

(1) Areas which are consistent with the comprehensive plan of the City of Lynchburg.

(2) Areas which are provided with public services certified to be adequate for the proposed development by the director of community planning and development of the City of Lynchburg.

(e) Cluster commercial development application procedure. No development within this district shall be commenced until the submittal of a preliminary site plan to the planning commission for its recommendations and subsequently to city council for approval. However, final approval of the conditional use request will be contingent upon approval of the final site plan.

Both the preliminary and final site plan shall be prepared and submitted in accordance with Section 35.1-14 of this chapter. Upon approval, a copy of said plan shall be recorded in the clerk's office of the circuit court for the City of Lynchburg in the same manner as plats of subdivisions are recorded.

Before any permit shall be issued for the erection of a permanent building in a proposed cluster commercial development, and before any subdivision plat or any part thereof may be filed in the office of the clerk of the circuit court, the developer or his authorized agent shall apply for and secure approval of such cluster commercial development in accordance with the administrative review procedures provided for planned unit developments (Section 35.1-42.5, Section 35.1-42.6, Section 35.1-42.7 and Section 35.1-42.8).

The division of inspections may issue a certificate of occupancy without the completion of the planting of trees, shrubbery, etc., as required by the site plan upon being furnished a bond or other security in an amount estimated by the division of inspections to be sufficient to cover the costs of such planting. Such bond or other security must be in a form approved by the city attorney. All required planting shall be completed during the next planting season.

(f) Standards.

	CCD
(1) General standards. Minimum average lot area (square feet)	6,000
Maximum coverage (all buildings)	75%
Maximum floor area ratio	0.75

(2) Height regulations. Building height regulations shall be the same as those in the B-1 district, Section 35.1-34.

(3) Yard regulations. The requirements for yards shall generally be the same as those for the B-2 districts, Section 35.1-35. These requirements may be modified as approved for specific developments. (4) Area regulations. The area requirements shall generally be the same as those for the B-2 districts, Section 35.1-35.

(g) Signs. Signs shall comply with the provisions of Section 35.1-26.

(h) Parking requirements. Roads for interior vehicular circulation shall meet the requirements of the director of the department of public works. Off-street parking and loading spaces shall meet the requirements of Section 35.1-25 of this chapter. Required parking spaces shall be provided within the perimeter of the cluster commercial development and no further than five hundred (500) feet from the facilities to be served. Off-street parking and loading areas shall be screened from residential areas and shall be designed to produce the minimum possible interference with pedestrians circulation within the development.

(i) Bonus provisions. For a cluster commercial development, there may be granted an increase in the permissible floor area ratio (F.A.R.) for additional landscaped areas. (Ord. No. O-78-352, 12-12-78; Ord. No. O-87-045, § 1, 3-10-87)

**Sec. 35.1- 43.1. Con di tional zone or zone ap proval.**

(a) Purpose of Conditional Zoning. The purpose of conditional zoning is to provide a method for permitting the reasonable and orderly development and use of land in those situations in which peculiar specific circumstances indicate that the existing zone ordinance district regulations are not adequate. In such instances reasonable conditions voluntarily proffered by the owner of the subject property to which such conditions are applicable for the protection of the community (which conditions are not generally applicable to other land similarly zoned) when considered with existing zoning ordinance district regulations should cause the requested rezoning to be compatible with existing zoning and uses in the area.

(b) Approval of Conditions as part of a Rezoning Amendment to Zoning Map. The owner of the property which is the subject of a rezoning request shall, if he elects to obtain conditional zoning, voluntarily proffer in writing such conditions as he deems appropriate at the time of filing an application to rezone the property or by such later date as the commission shall establish in its rules and regulations; but in any event before the Planning Commission makes its recommendation to City Council.

In the event that additions thereto or modifications thereof are desired by the owner of the property which is the subject of the rezoning request the same shall be made in writing no less than twenty-one (21) days prior to the time at which the Planning Commission makes recommendation to City Council unless the commission:

- (1) Specifically waives such time period; or
- (2) Specifically establishes such greater or lesser time period as it deems reasonable.

City Council may consider additional proffers, deletions, and/or amendments to all such conditions provided same have been voluntarily proffered in writing by the owner of the property which is the subject of the rezoning request prior to advertising the public hearing at which City Council renders its decision thereof.

(c) Permitted conditions as part of a Rezoning or Amendment to Rezoning Map. City Council may approve reasonable conditions to rezoning; provided, that the following criteria are met:

- (1) The rezoning itself must give rise to the need for the conditions.
- (2) Such conditions shall have a reasonable relation to the rezoning.
- (3) Such conditions shall not include a cash contribution to the City.
- (4) Such conditions shall not require mandatory dedication of real or personal property for open space, parks, schools, fire stations, or other public facilities not otherwise authorized by law.
- (5) Such conditions shall not include payment for or construction of off-site improvements except those sewerage or drainage facilities otherwise authorized by law.

(6) No condition shall be proffered that is not related to the physical development or physical operation of the property.

(7) All such conditions shall be in conformity with the City's General Plan.

(8) The provisions of this ordinance shall not be used for the purpose of discrimination in housing.

(d) Records of Conditional Zoning.

(1) The zoning map shall show by an appropriate symbol the existence of conditions attached to the zoning.

(2) The Superintendent of Inspections shall maintain a Conditional Zoning Index which Index shall be available in the Inspections Division Office for public inspection during regular office hours. The Index shall provide ready access to the ordinance creating such conditions in accordance with the article and shall clearly list all conditions applicable to each.

(3) Before any permits can be issued to begin construction or for the occupancy of an existing structure, the petitioner shall file and record in the Office of the Clerk of the Circuit Court of the City of Lynchburg, Virginia, the conditions approved by City Council.

These conditions shall be indexed under the names of the landowners of the property being conditionally zoned. The petitioner shall submit a notarized letter to the Clerk of City Council, the Superintendent of Inspections and the City Planner certifying that the conditions have been recorded with the Clerk of the Circuit Court.

(e) Enforcement and Guarantees. In order to ensure the intent and purpose of conditional zoning approved in accordance with this article, the Superintendent of Inspections or his agents shall be vested with all necessary authority on behalf of City Council to administer and enforce conditions attached to a zoning or amendment or a zoning map including:

(1) Ordering in writing, compliance with such conditions.

(2) Bringing of appropriate legal action or proceeding to ensure compliance.

(3) Requiring a guarantee or contract or both for construction of physical improvements approved as condition(s) of the rezoning.

(4) Denial of zoning certification with regard to the issuance of any required use, occupancy or building permit.

(5) Making an annual compliance report to the City Planner on the anniversary of such approval certifying compliance with such conditions.

(f) Review of Superintendent of Inspections' Decision. Any applicant who is aggrieved by the Superintendent of Inspections' decision or actions under subsection E regarding enforcement of guarantees as provided for in subsection E above may petition the City Council for review of such decision(s). Such petition shall be filed with the Superintendent of Inspections no less than thirty (30) days prior to a regularly scheduled meeting of City Council designated for hearing of zoning matters. The Superintendent of Inspections shall forward the petition and the justification for his decision(s) to City Council and to the aggrieved person no less than ten (10) days prior to the next regularly scheduled meeting designated for hearing of zoning matters. Written notice of such meeting shall be given to all parties as required by Section 15.1-431 of the Code of Virginia.

(g) Amendments and Variations of Conditions. All amendments and/or variations of adopted conditions shall be made in accordance with provisions of Section 35.1-43 above and other applicable law.

(h) After City Council has taken official action either granting, denying, or permitting withdrawal of a petition for any change in zoning or any change of zoning conditions, no other petitions for substantially the

same change(s) shall again be considered in less than twelve (12) months from the date of such official action. (Ord. No. O-80-101, § 2, 4-22-80)

**Sec. 35.1- 43.2. Commercial corridor overlay district (CC).**

(a) Intent. This district is intended to protect and promote the health, safety and general welfare of the public; to enhance the visual appearance of the corridor; to protect and promote the appearance, character and economic values along the corridor and the surrounding neighborhoods.

Furthermore, the district is intended to maintain the long term function of arterial and collector roadways; to limit access and the number of conflict points; to promote vehicular circulation; and to promote prevention or reduction of traffic congestion and danger in the public streets.

Additionally, the district is intended to encourage land assembly and the most desirable use of land in accordance with the General Plan; to encourage designs that produce a desirable relationship between individual sites, the circulation system, and adjacent areas; to permit a flexible, efficient response to development of a variety of land uses and activities of high value.

(b) District boundaries. The commercial corridor overlay district boundaries shall be as described in the ordinance as adopted by city council.

(c) Establishment of districts. The commercial corridor overlay district shall be in addition to and shall overlay all other zoning districts where it is applied so that any parcel of land lying in the commercial corridor overlay district shall also lie within one or more of the other zoning districts provided by this ordinance. The effect shall be the creation of new zoning districts consisting of the regulations and requirements of both the underlying district(s) and the commercial corridor overlay district.

(d) District standards. Where the standards of the commercial corridor overlay district and the underlying district(s) differ, the more restrictive standard shall apply.

(e) Exemption to standards. Single and two family residential uses shall not be subject to the standards of the commercial corridor overlay district. However, at such time that a single or two family residential use is to be converted to another use it will be subject to the standards of the commercial corridor overlay district.

(f) Uses permitted by right. The uses permitted in the commercial corridor overlay district shall be the same uses permitted in the applicable underlying zoning districts.

(g) Permitted accessory uses. The accessory uses permitted in the commercial corridor overlay district shall be the same as the accessory uses permitted in the applicable underlying zoning districts.

(h) Uses permitted by conditional use permit. The conditional uses permitted in the commercial corridor overlay district shall be the same as the conditional uses permitted under the applicable underlying zoning districts.

(i) Parking lot landscaping. All development sites shall landscape an area equivalent to fifteen (15) percent of the total area of the parking lot. The landscaping material shall be at least four (4) feet in height at the time of planting and at least five (5) feet in width at maturity. The location of such landscaping shall be around the building perimeter and within the parking lot or in such locations as are approved by the city.

(j) Street tree landscaping. In all instances where commercial and/or multi-family residential districts are adjacent to any public streets, participation in the city's street tree program is required. Participation will be according to the master street tree plan for the street frontage(s) or, lacking a plan for the specific area to be developed, at the direction of the city horticulturist.

(k) Vegetative buffering. In all instances where commercial and/or multi-family residential districts are adjacent to single-family residential districts, and in all instances where commercial districts are adjacent to multi-family residential districts, there shall be established within the commercial and/or multi-family

district, as applicable, a screened yard of vegetative buffering between the districts. Planting design for vegetative buffering shall be as follows:

- (1) The arrangement and spacing of the vegetative buffer shall be provided in such a manner as to effectively screen the activities of the subject lot. It shall generally be provided along the property line, unless topographic or other considerations would make it more effective if located back from the property line. The vegetative buffer will consist of a staggered evergreen tree line with a baseline filler of medium height evergreen or semi-evergreen shrubs. The evergreen tree line shall be staggered ten (10) feet on center.
- (2) The evergreen tree material shall be at least four (4) feet in height at the time of planting. The trees and shrubs shall be of a live species as approved by the city horticulturist as being appropriate for screening purposes.
- (l) Tree preservation. Preservation of existing trees is encouraged to provide continuity, improved buffering ability, pleasing scale and image along and within the commercial corridor overlay district. Any healthy existing tree may be included for credit toward the requirements of paragraphs (i), (j) and (k) of this section provided that the intended effect of the section is maintained.
- (m) Location of off-street parking facilities. To ensure adequate space when the vegetative buffer is required, no paving or off-street parking facilities shall be located within twenty-five (25) feet of any single-family residential district.
- (n) Screening of loading/storage/utility areas. All loading areas, outside storage areas, refuse storage areas and utility (i.e. electrical, mechanical, heating, air conditioning, ventilation equipment) areas must be wholly screened from view of all public streets and residential districts. Screening shall consist of either solid board fence, masonry wall, dense evergreen materials or such other materials as may be approved.
- (o) Exterior lighting. Exterior lighting shall be controlled so that no direct illumination will occur beyond any property line shared with a residential district.
- (p) Commercial districts and multi-family residential districts adjacent to single-family residential districts. In all instances where a commercial district and/or a multi-family residential district is adjacent to a single-family residential district there shall be required a sixty-five (65) foot setback within the commercial and/or multi-family residential district.
- (q) Front setback. The front setback is established at forty (40) feet. No parking will be permitted within twenty (20) feet of the front property line.
- (r) Frontage. The minimum frontage requirement along arterial and collector roadways for commercial districts is established at two hundred fifty (250) feet.
- (s) Access.
  - (1) Direct access. Any lot having frontage along an arterial or collector roadway shall be permitted and limited to one direct access to the arterial or collector roadway. The access shall be aligned with the existing cross-over, or as directed by the city technical review committee.
  - (2) Assembly of lots. If two (2) or more adjacent lots are placed under one ownership and or control such assembly of lots shall be permitted and limited to one direct access to the arterial or collector roadway.
  - (3) Additional direct access. Additional direct access to the arterial or collector roadway shall be provided (a) if required by the city technical review committee for safe access, or (b) if a minimum spacing of two hundred fifty (250) feet is maintained between entranceways provided on any one (1) lot. Additional direct access will be aligned with existing cross-overs, or as directed by the city technical review committee.
  - (4) Shared direct access. A fifty (50) percent reduction to the minimum frontage requirement will be permitted (a) with the provision of shared direct access onto the arterial or collector roadway with an

adjacent lot having frontage on the arterial or collector roadway, or (b) with the provision that no direct access to the arterial or collector roadway is proposed.

(5) Existing lots. A reduction to the minimum frontage requirement will be permitted for existing lots of record established prior to the effective date of this section, provided:

- a. The lot frontage is not reduced further than established prior to the enactment of this section; and
- b. Shared direct access is provided onto the arterial or collector roadway with an adjacent lot having frontage on the arterial or collector roadway, or no direct access to the arterial or collector roadway proposed.

(t) Internal vehicular circulation. Commercial sites shall be designed to achieve direct and convenient vehicular access between adjacent commercial properties unless otherwise required by the city.

(u) Provision for shared direct access and internal vehicular circulation. The owner(s) of a lot(s) providing for shared direct access and or internal vehicular circulation shall make adequate provision by dedication, easements, covenants, restrictions, or other legal instruments for ensuring that such shared direct access and or internal vehicular circulation are provided for and maintained consistent with the regulations and intent of this section. (Ord. No. O-89-035, § 1, 2-14-89)

### **Section 35.1- 43.3. Scenic Corridor Overlay District (SC).**

(a) Intent. This district is intended to protect and promote the health, safety and general welfare of the public; to enhance the visual appearance of the corridor; to protect and promote the character and vistas, and prevent unnecessary clutter and congestion along the corridor and the surrounding neighborhoods.

(b) District boundaries. The Scenic Corridor Overlay District boundaries shall be as described in the ordinance as adopted by City Council.

(c) Establishment of districts. The Scenic Corridor Overlay District shall be in addition to and shall overlay all other zoning districts where it is applied so that any parcel of land lying in the scenic corridor overlay district shall also lie within one or more of the other zoning districts provided by this Ordinance. The effect shall be the creation of new zoning districts consisting of the regulations and requirements of both the underlying district(s) and the Scenic Corridor Overlay District.

(d) District standards. Where the standards of the Scenic Corridor Overlay District and the underlying district(s) differ, the more restrictive standard shall apply.

(e) Exemption to Standards. Except as specifically noted, single-family, two-family residential uses, planned unit developments, cluster commercial developments, and mobile home parks shall not be subject to the standards of the Scenic Corridor Overlay District. However, at such time that a single-family, two-family residential use, planned unit development, cluster commercial development or mobile home use is to be converted to another use, it will be subject to the standards of the Scenic Corridor Overlay District. Townhouse developments will be subject to the standards of the Scenic Corridor Overlay District.

(f) Uses permitted by right. The uses permitted in the Scenic Corridor Overlay District shall be the same uses permitted in the applicable underlying zoning districts.

(g) Permitted accessory uses. The accessory uses permitted in the Scenic Corridor Overlay District shall be the same as the accessory uses permitted in the applicable underlying zoning districts.

(h) Uses permitted by conditional use permit. The conditional uses permitted in the Scenic Corridor Overlay District shall be the same as the conditional uses permitted under the applicable underlying zoning districts.

(i) Parking lot landscaping. All development sites shall landscape an area equivalent to fifteen (15) percent of the total area of the parking lot. The landscaping material shall be at least four (4) feet in height



at the time of planting and at least five (5) feet in width at maturity. The location of such landscaping shall be around the building perimeter and within the parking lot or, at the request of the developer, in such locations as are approved by the city.

(j) Street tree landscaping. In all instances where commercial, multi-family districts, industrial districts and mobile home parks are adjacent to any public streets, participation in the city's street tree program is required. Participation will be according to the master street tree plan for the street frontage(s) or, lacking a plan for the specific area to be developed, at the direction of the city horticulturist (mobile home parks shall be subject to this standard).

(k) Vegetative buffering. In all instances where commercial, industrial, multi-family residential districts and mobile home parks are adjacent to single-family and two-family residential districts, and in all instances where commercial, industrial districts, and mobile home parks are adjacent to multi-family residential districts, there shall be established within the commercial, industrial, multi-family district, and mobile home park, as applicable, a screened yard of vegetative buffering between the districts. Planting design for vegetative buffering shall be as follows:

(1) The arrangement and spacing of the vegetative buffer shall be provided in such a manner as to effectively screen the activities of the subject lot. It shall generally be provided along the property line, unless topographic or other considerations would make it more effective if located back from the property line. The vegetative buffer will consist of a staggered evergreen tree line with a baseline filler of medium height evergreen shrubs. The evergreen tree line shall be staggered ten (10) feet on-center. (In lieu of the baseline filler of medium height evergreen shrubs, a landscaped earthen berm can be used. Generally, the earthen berm shall have a varying width and height, curvilinear in form, providing a gentle tie-in with the existing grade. The minimum height shall be three (3) feet.)

(2) The evergreen tree material shall be at least six (6) feet in height at the time of planting. The evergreen shrubs shall be at least two (2) feet in height at the time of planting. (Mobile home parks shall be subject to this standard.)

(l) Tree preservation. Preservation of existing trees is encouraged to provide continuity, improved buffering ability, pleasing scale and image along and within the Scenic Corridor Overlay District. Any healthy existing tree may be included for credit toward the requirements of paragraphs (i), (j) and (k) of this section provided that the intended effect of the section is maintained.

(m) Location of off-street parking facilities. To ensure adequate space when the vegetative buffer is required, no paving or off-street parking facilities shall be located within twenty-five (25) feet of any residential district.

(n) Screening of loading/storage/utility areas. All loading areas, outside storage areas, refuse storage areas and utility (i.e., electrical, mechanical, heating, air conditioning, ventilation equipment) areas must be wholly screened from view of all public streets and residential districts. Screening shall consist of either solid board fence, masonry wall, dense evergreen plant materials or, at the request of the developer, such other materials as may be approved by the division of inspections.

(o) Exterior lighting. Exterior lighting shall be controlled so that no direct illumination will occur beyond any property line (no exemptions to this standard.)

(p) Industrial, commercial and multi-family districts adjacent to single-family and two-family residential districts and limited access highways. In all instances where an industrial, commercial, or a multi-family residential district is adjacent to a single-family residential district, two-family residential district or a limited access highway, there shall be required a sixty-five (65) foot setback within the industrial, commercial or multi-family residential district.

(q) Setback. The minimum building and parking setbacks are established at forty (40) feet for lots abutting the public street on which the scenic corridor overlay district is centered. This setback shall be

measured from the right-of-way line shared by the lot and the public street on which the scenic corridor overlay district is centered. This provision shall not be applicable to limited access highways.

(r) Utilities. All utilities shall be located underground.

(s) Building bulk softening effect. There shall be a building bulk softening effect created by landscaping between a structure and a limited access highway. Landscaping shall be at the outer boundaries and in the required yards and shall be provided except where driveways or other openings are required. Plantings shall be in an irregular (or "staggered") line. Clustering of plant and tree species shall be required. For the purpose of this section, the following definitions shall be applicable:

Large deciduous tree. A large deciduous tree shall be of a species having an average minimum mature crown spread of greater than thirty (30) feet. A minimum caliper of at least two and one-half (2 1/2) inches at the time of planting shall be required.

Small deciduous tree. A small deciduous tree shall be of a species having an average minimum mature crown spread of greater than twelve (12) feet. A minimum caliper of at least one and three-fourths (1 3/4) inches at the time of planting shall be required.

Evergreen trees. Evergreen trees shall have a minimum height of at least six (6) feet at the time of planting.

Medium shrubs. Shrubs and hedge forms shall have a minimum height of at least two (2) feet at the time of planting.

(1) For buildings twelve (12) feet or less in height (eave height).

(a) At least one small deciduous tree for each fifty (50) lineal feet and at least one evergreen tree for each thirty (30) lineal feet shall be planted.

(b) At least one medium shrub for each twenty (20) lineal feet shall be planted. (In lieu of the required shrubbery, a landscaped earthen berm can be used. Generally, the earthen berm shall have a varying width and height, curvilinear in form, providing a gentle tie-in with the existing grade. The minimum height shall be three (3) feet.)

(2) For buildings greater than twelve (12) feet in height (eave height).

(a) At least one large deciduous tree for each fifty (50) lineal feet and at least one evergreen tree for each thirty (30) lineal feet shall be planted.

(b) At least one small deciduous tree for each fifty (50) lineal feet shall be planted.

(c) At least one medium shrub for each twenty (20) lineal feet shall be planted. (In lieu of the required shrubbery, a landscaped earthen berm can be used. Generally, the earthen berm shall have a varying width and height, curvilinear in form, providing a gentle tie-in with the existing grade. The minimum height shall be three (3) feet.)

(t) Architectural treatment. No portion of a building constructed of unadorned cinderblock or corrugated and/or sheet metal shall be visible from any adjoining single-family or two-family residential district or public right-of-way. Buildings shall be designed to utilize to the greatest extent feasible building materials which are compatible with the Scenic Corridor Overlay District environment, such as rock, stone, brick and wood. Vegetative buffering, as described in paragraph (k) of this section, placed along that portion of a building not otherwise meeting the requirements of architectural treatment, will be deemed sufficient treatment for the purposes of this section.

## (u) Signs.

(1) Restricted signs. The following types of signs shall be prohibited within the Scenic Corridor Overlay District:

- a. Bill boards
- b. Portable signs
- c. Flashing (on and off) signs or any sign simulating movement on the interior or the exterior of a building
- d. Signs painted on building or premise
- e. Changeable copy signs
- f. Pennants, non-governmental flags, non-company/corporate logo flags, banners
- g. Roof signs (above line of roof)
- h. Signs which contain an off-site commercial motif not incidental to the use of the site (soda bottles, hamburgers, figures, etc.) or other outdoor commercial displays
- i. Signs which are not of a standard geometric shape or whose backing is not of a standard geometric shape

(2) Permitted signs. A unified system of signage and graphics shall be encouraged for each individual development. Signage concepts should be considered during the design of buildings. Size, height, location, material, and color should strongly relate to building and site design.

- a. Each development shall be permitted one (1) detached free standing sign identifying the development and announcing only the name or location of the development and business names of tenants therein. One logo per sign shall be permitted. All tenant signs (individual signs for businesses in a development) shall be uniform in letter size and color.
- b. For each independent development within an industrial park one identification sign shall be permitted on each fronting public street.
- c. Directional signs indicating location of truck entrances, employee parking, shipping and receiving, and similar activities; provided that all such signs are located on the property of the business and no such signs exceed four (4) square feet in area. Directional signs shall contain no advertising.
- d. The backing and support material of the face sign shall be of the same material as of that portion of the building which faces any adjoining single-family or two-family residential district or public right-of-way, or of a natural material (such as rock, stone, brick, wood).
- e. Other signs such as real estate, political, etc., not specifically addressed in the Scenic Corridor Overlay District Standards are to conform to the regulations of the underlying districts. (Ord. No. O-89-148, 1, 6-13-89; Ord. No. O-89-246, § 1, 9-12-89; Ord. No. O-92-325, 10-13-92)

**Sec. 35.1- 43.4. Airport safety overlay district (AS).**

(a) Intent. This district is intended to regulate and restrict the height of structures and objects in the vicinity of the airports and the navigable airspace in the City of Lynchburg by creating the appropriate zones and establishing boundaries thereof; providing for changes in the restrictions and boundaries of such zones; defining certain terms used herein; providing for enforcement; imposing penalties; and to satisfy the requirements of the General Assembly of Virginia regarding airport safety zoning.

This section is adopted pursuant to the authority conferred by Chapter 11 of Title 15.1, and specifically to satisfy the requirements of Section 15.1-491.02 of the Code of Virginia 1950, as amended. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the airports and residents in the City of Lynchburg; and that an obstruction may reduce the size of areas available for

the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the airports and the public investment therein. Accordingly, it is declared:

(1) that, in the interest of the public health, safety, and general welfare, it is necessary to prevent the creation or establishment of obstructions that are hazards to air navigation;

(2) that the creation or establishment of an obstruction has the potential for being a public nuisance and may injure the area served by the airports;

(3) that the prevention of these obstructions should be accomplished, to the extent legally possible, without compensation to the property owner.

(b) Definitions. As used in this section, the following terms shall have the meanings respectively ascribed to them, unless the context clearly requires otherwise:

(1) Administrator: the official charged with the enforcement of this section, shall be the superintendent of inspections.

(2) Airport: Lynchburg Regional Airport and/or Falwell Airport.

(3) Airport elevation: the highest point on any usable landing surface expressed in feet above mean sea level.

(4) Approach surface: a surface, whose design standards are referenced in subsection (c) of this section, longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface, and at the same slope as the approach zone height limitation slope set forth in subsection (d) of this section. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

(5) Approach, transitional, horizontal, and conical zones: the airspace zones as set forth in subsection (c) of this section.

(6) Building Permit: a document issued by the City of Lynchburg to permit the construction of any structure as provided for in this section.

(7) Conical surface: a surface, whose design standards are referenced in subsection (c) of this section, extending and sloping horizontally and vertically from the periphery of the horizontal surface.

(8) Hazard to air navigation: an obstruction determined by the Virginia Department of Aviation or the Federal Aviation Administration to have a substantial adverse effect on the safe and efficient utilization of navigable airspace in the Commonwealth.

(9) Height: for the purpose of determining the height limits in all zones set forth in subsection (d) of this section and shown on the zoning map, the datum shall be mean sea level (M.S.L.) elevation unless otherwise specified.

(10) Horizontal surface: a horizontal plane, whose design standards are referenced in subsection (c) of this section, above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

(11) Nonconforming use: any preexisting structure or object of natural growth which is inconsistent with the provisions of this section or any amendment to this section.

(12) Obstruction: any structure, or other object, including a mobile object, which exceeds a limiting height, or penetrates any surface or zone floor, set forth in subsection (d) of this section.

(13) Primary surface: a surface, whose design standards are referenced in subsection (c) of this section, longitudinally centered on a runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

(14) Runway: a specified area on an airport prepared for landing and takeoff of aircraft.

(15) Structure: any object, including a mobile object, constructed or installed by any person, including but not limited to buildings, towers, cranes, smokestacks, earth formations, poles and electric lines of overhead transmission routes, and flag poles.

(16) Transitional surfaces: surfaces, whose design standards are referenced in subsection (c) of this section, which extend outward perpendicular to the runway centerline sloping from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

(17) Zone: all areas provided for in subsection (c) of this section, generally described in three dimensions by reference to ground elevation, vertical distances from the ground elevation, horizontal distances from the runway centerline and the primary and horizontal surfaces, with the zone floor set at specific vertical limits by the surfaces found in subsection (d) of this section.

(c) Airport safety zones. In order to carry out the provisions of this section, there are hereby established certain zones which include all of the area and airspace of the City of Lynchburg lying equal to and above the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Lynchburg Regional Airport and Falwell Airport. These zones are established as overlay zones, superimposed over the existing base zones, being more specifically zones of airspace that do not affect the uses and activities of the base zones except as provided for in subsection (c) and (d) of this section. An area located in more than one of the following zones is considered to be only in the zone with the most restrictive height limitation. These zones are as follows:

(1) airport zone: a zone that is centered about the runway and primary surface, with the floor set by the horizontal surface.

(2) approach zone: a zone that extends away from the runway ends along the extended runway centerline, with the floor set by the approach surfaces.

(3) transitional zone: a zone that fans away perpendicular to the runway centerline and approach surfaces, with the floor set by the transitional surfaces.

(4) conical zone: a zone that circles around the periphery of and outward from the horizontal surface, with the floor set by the conical surface.

The source and the specific geometric design standards for these zones are to be found in Part 77.25, 77.28, and 77.29, subchapter E (Airspace), of Title 14 of the Code of Federal Regulations, or in successor federal regulations. The boundaries of such zones are shown on maps filed and maintained in the same manner provided for in Section 35.1-4 of this Code for other zoning maps.

(d) Airport safety zone height limitations.

(1) Except as otherwise provided in this section, in any zone created by this section no structure shall be erected, altered, or maintained to a height so as to penetrate any portion of any referenced surface, also known as the floor, of any zone provided for in subsection (c) of this section.

(2) The height restrictions, or floors, for the individual zones shall be those planes delineated as surfaces in Part 77.25, 77.28, and 77.29, Subchapter E (Airspace), of Title 14 of the Code of Federal Regulations, or in successor federal regulations.

(3) For any proposed construction or activity that may penetrate any referenced surface, certification of the elevation shall be submitted to the administrator by a Virginia registered engineer or surveyor.

(4) Any such proposed structure or activity within the airport safety zone shall meet the standards and requirements of the Federal Aviation Administration or the Virginia Department of Aviation. The Inspections Division shall refer the plans for such a proposed structure to the applicable agency for a report as to the possible interference with flight operations, if the certificate of elevation indicates that the

structure will exceed the standards listed in this section. The inspections division shall obtain certification from the Virginia Department of Aviation that the proposed obstruction will or will not be considered a hazard to air navigation by that agency.

(e) Nonconforming uses.

(1) Except as provided in subsection (e)(2) and (f)(2) of this section, the regulations prescribed by this section shall not require the removal, lowering or other change or alteration of any structure or vegetation not conforming to the regulations as of the effective date of this section, or otherwise interfere with the continuance of a nonconforming use. Nothing contained in this section shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this section, and is diligently prosecuted.

(2) Notwithstanding the provision of subsection (e)(1), the owner of any existing nonconforming structure or vegetation is hereby required to permit the installation, operation, and maintenance thereon of whatever markers and lights deemed necessary by the Federal Aviation Administration or the Virginia Department of Aviation. These markers and lights shall be installed, operated, and maintained at the expense of the airport owners, and not the owner of the nonconforming obstruction.

(f) Building Permits.

(1) Except as provided in subsections (f)(1), (f)(2), and (f)(3) of this section, no structure shall be erected or otherwise established in any zone created by this section unless a building permit therefore shall have been applied for and granted. Each application for a building permit shall indicate the purpose for which desired and with sufficient geometric specificity to determine whether the resulting structure would conform to the regulations prescribed in this section.

(2) No building permit shall be granted that would allow the establishment or creation of an obstruction or allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this section or any amendments thereto other than with relief as provided for in this section.

(3) Whenever the administrator determines that a nonconforming structure has been abandoned for two (2) or more years, or greater than fifty percent of the value of the structure has been destroyed, physically deteriorated, or decayed, no building permit shall be granted that would enable such structure to be rebuilt, reconstructed, or otherwise refurbished so as to exceed the applicable height limit or otherwise deviate from the zoning regulations contained in this section, except with the relief as provided for in section 35.1-27, subsection (h), nonconforming uses.

(4) Any person desiring to erect or increase the height or size of any structure not in accordance with the regulations prescribed in this section may apply for a variance from such regulations to the board of zoning appeals. Such application shall be properly advertised and be reviewed and considered in a public hearing. Prior to being considered by the board of zoning appeals, the application for variance shall be accompanied by a recommendation from the Virginia Department of Aviation. Such variances shall only be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this section.

(5) Any building permit granted may be made conditional to require the owner and/or operator of the structure and land to install, operate, and maintain, at the owner's expense, such markings and lights as may be deemed necessary by the Federal Aviation Administration, the Virginia Department of Aviation, or the administrator.

(6) The owner of any proposed obstruction is hereby required to post a bond, in such an amount as may be deemed appropriate by the administrator, to cover the expense of removal of such obstruction as stipulated in subsection (f)(3). This bond shall carry with the ownership of the land or structure.

(7) When any structure erected after the enactment of this section exceeds the height listed in the building permit, the owner/operator shall be legally and financially responsible for removing such obstruction.

(g) Enforcement. The administrator shall administer and enforce the regulations prescribed in this section, unless otherwise stated, and shall carry out and effectuate this section, including the action of injunction, prosecution and other available means through the General Circuit Court of Lynchburg.

(h) Penalties. Each violation of this section or of any regulation, order, or ruling promulgated under this section shall constitute a misdemeanor and be punishable by a fine of no more than one thousand dollars (\$1000), as provided in the Zoning Ordinance. Each day on which a violation occurs shall constitute a separate offense.

(i) Conflicting regulations. Where there exists a conflict between any of the regulations or limitations prescribed in this section and any other regulations applicable to the same subject, where the conflict is with respect to the height of obstructions, the more stringent limitation or requirement shall govern.

(j) Severability. Should any portion or provision of this section be held by any court to be unconstitutional or invalid, that decision shall not affect the validity of the section as a whole, or any part of the section other than the part held to be unconstitutional or invalid.

(k) Adoption. Be it resolved that this section has been properly drawn, legally advertised, and presented through a public hearing before the governing body of the City of Lynchburg on December 13, 1994. Be it further resolved that the effective date of this section is December 13, 1994, and that the section from that date forward carries the full weight of law within the City of Lynchburg until and unless altered otherwise by the governing body. (Ord. No. O-94-312, 12-13-94)

#### **Sec. 35.1-43.5. Traditional neighborhood developments.**

(a) Intent. It is the intent of the traditional neighborhood development (TND) section to provide opportunities for the creation of new neighborhoods designed along the traditions of small town and urban neighborhood development prevalent in the United States from colonial times until the 1940's. These design traditions created communities that fostered strong connections between people as they lived, worked, shopped, learned, recreated, and worshiped. Because TNDs are tightly knit and incorporate an integrated mix of uses, they do not meet the development standards of the city's existing zones. Therefore, this TND section is provided to offer a flexible set of land use and design regulations based on performance standards that will allow traditional neighborhood development subject to site-specific city review. Where TNDs are deemed appropriate by the city council, all dimensional specifications, setback, buffering, and landscaping requirements, and location of parking facilities and recreation facilities prescribed elsewhere in this ordinance are herein replaced by an approval process in which the approved TND plan and design guidelines become the basis for continuing land use controls.

(b) Objectives. In order to carry out the intent of this section, a TND shall achieve the following objectives:

(1) the design of the neighborhood allows residents to work, shop, and carry out many of life's other activities within the neighborhood.

(2) a mix of land uses is provided. The proximity of uses allows residents to walk, ride a bicycle, or take transit for many trips between home, work, shopping, and school.

(3) a variety of housing types is provided at a range of densities, types (multi-family, townhouse, and single-family), and costs. Neighborhoods are heterogeneous mixes of residences in close proximity to commercial and employment uses.

(4) the neighborhood includes a retail, office, employment, and/or entertainment core to provide economic and social vitality and a major focus and meeting place in the community.

(5) the circulation system serves many modes of transportation and provides choices for alternative transportation routes. Streets, alleys, and pedestrian and bike paths connect to the surrounding area to the extent possible. Streets and alleys generally follow a grid pattern to provide these route choices and connections. Traffic calming techniques may be used to reduce vehicle speed and increase pedestrian and bicycle safety.

(6) the overall intensity of development is designed to be high enough to support transit service.

(7) a system of parks, open spaces, civic, public, and institutional uses is included to create a high quality of life and civic identity for the community.

(8) the cluster concept is embraced so as to concentrate development in environmentally suitable areas and to preserve and protect important environmental and cultural resources.

Drawings illustrating some of the concepts of a TND are retained by the city planner.

(c) Definitions. For purposes of this section, the following special definitions are provided:

(1) Alley: A public or private right-of-way, not less than twenty (20) feet nor more than twenty-eight (28) feet in width, that provides secondary and/or service access for vehicles to the side or rear of abutting properties having principal frontage on another street.

(2) Center of the traditional neighborhood development: The center point of the neighborhood from which walking distances are measured. This point need not be located at the exact geographic center of the neighborhood, but should be centrally located.

(3) Core area: The area immediately around the center of the TND where retail, office, employment, and/or entertainment uses are concentrated to provide economic and social vitality and a major focus and meeting place in the community. The core may also include high density residential uses. The core area shall be located within 1/4 mile of the center of the TND.

(4) Edge area: The area(s) located farthest from the center and core area of the TND. Edge areas contain the lowest density uses of the neighborhood. Some TNDs, especially those that are to be developed on infill parcels within existing neighborhoods, may not contain any edge areas.

(5) Floorplate: The horizontal land area occupied by a building at finished grade including projections and overhangs.

(6) Net development area: The total area of land in the TND designated for residential, commercial/service, restricted industrial, civic, or open space uses, including alleys, but not including public streets.

(7) Open space, common: Land held in common by a property owners association for both active and passive recreational use. Such land shall contain at least fifty percent (50%) green area, either landscaped or naturally vegetated, that is not used for recreational buildings, parking, or paved areas. Common open space land shall be open for use by all members of the property owners association.

(8) Park: Public land for both active and passive recreational use. Parks may contain landscaped or naturally vegetated areas, recreational buildings and facilities, and parking.

(9) Satellite area: A pocket of higher intensity uses that is not within one-quarter (1/4) mile of the center of the TND and is not part of the core area.

(10) Square: Land open to the general public for passive recreational use that contains paved pedestrian plazas, lawns, shade trees, and/or landscape plants. Paved pedestrian plazas may cover up to ninety percent (90%) of the square. Squares may be publicly owned or owned in common by a property owners association. Squares are not required to be square in shape.



(11) Transitional area: The area(s) of the TND adjacent to the core area that provide a transition of development intensity between the core and the edge areas. Most of the transitional area shall be located within one-quarter (1/4) mile of the center of the TND so as to promote walking between this predominately residential area and the core commercial areas. (Ord. No. O-98-013, 2-10-98)

**Sec. 35.1-43.6. General requirements for traditional neighborhood developments.**

(a) Minimum area. Generally, the minimum area required to qualify for a traditional neighborhood development shall be thirty (30) contiguous acres of land. Where the applicant can demonstrate that the characteristics of a proposed project site will meet the objectives of this article, the city council may consider projects of less acreage when considering a TND application.

(b) Location of traditional neighborhood developments. A traditional neighborhood development may be established by a conditional use permit in the R-C, R-1, R-2, R-3, R-4, and R-5 residential districts and the B-1, B-2, B-3 business districts, where the applicant can demonstrate that the characteristics of the property will meet the objectives of this section and are consistent with the general plan of the City of Lynchburg.

(c) Management and ownership of common open space and other common facilities in traditional neighborhood developments. All common open space properties and common facilities, such as alleys, not deeded to the city shall be preserved for their intended purpose as expressed in the approved plan. The developer shall provide for the establishment of a property owner's association to ensure the maintenance of all common open space properties and common facilities. The property owner's association shall be established pursuant to Sec. 35.1-56(c) of the city code.

(d) Fee schedule for traditional neighborhood development review. The fees for TND review and action shall be the same as those for planned unit developments as set forth in Sec. 35.1-42.2(e) of the city code. (Ord. No. O-98-013, 2-10-98; Ord. No. O-98-157, 7-14-98)

**Sec. 35.1-43.7. Permitted uses in traditional neighborhood developments.**

All uses within a traditional neighborhood development are determined by the provisions of this section and the approved plan of the project.

(a) Residential uses.

(1) A variety of residential uses shall be provided in the TND. Residences may be of any design and type, though the range of styles and materials shall be set by architectural design guidelines submitted with the TND application and made a part of the specific regulations governing the development of the TND.

(2) In developing a balanced community, the provision of housing with a broad range of prices shall be deemed to be most in compliance with the intent of this article.

(3) Generally, high density housing types (multi-family and single family attached housing) shall be located closest to the core of the community and within one-quarter (1/4) mile of the identified center of the community. Satellite high density residential areas are permitted if used to provide a transition between the neighborhood and abutting off-site high density housing areas, non-residential areas, or major transportation corridors. Satellite areas may include a commercial area, as described in Sec. 35.1-43.7(b)(1), or civic uses.

(4) A maximum of eighty percent (80%) of the net development area shall be designated for residential uses. The total land area designated for residential use shall be equal to or exceed the total area designated for commercial/service and restricted industrial combined.

(5) Of the total number of residential units to be constructed, no more than seventy percent (70%) shall be in one of the following categories:

a. Single family detached

- b. Single family attached (duplexes and townhouses)
- c. Multi-family

(6) The maximum net density as measured in dwelling units per acre in the TND shall not exceed the maximum net density set in the R-5 district in Sec. 35.1-33(f). The acreage to be included in this calculation shall be all land area devoted to residential, associated park and open space uses, and associated alleys.

- (b) Commercial and service uses.

(1) Each TND neighborhood shall have a core made up primarily of the uses permitted in the B-1, B-2, B-3 districts and located within one quarter (1/4) mile of the identified center of the community. Small-scale satellite commercial/service uses are also permitted in the TND neighborhood outside the core area as long as in total they comprise less than one-third (1/3) the gross commercial/service building square footage of the core.

(2) In addition to B-1, B-2, and B-3 permitted uses, the following conditional, commercial and service uses shall be permitted if specifically included in the approved TND plan, otherwise they will be conditional uses once a TND plan is approved:

- a. Arts and crafts shops
- b. Automobile service stations
- c. Commercial recreation establishments, such as dancing, bowling, billiards and the like, when located in enclosed buildings
- d. Outdoor restaurants
- e. Temporary fairs, exhibitions, and circuses
- f. Tourist homes or bed and breakfasts
- g. Veterinarian hospitals without outdoor kennels, including facilities for the sale and care of animals normally kept as pets but not farm animals

(3) The maximum floor plate for any commercial/service building shall be twenty thousand (20,000) square feet, though this limitation may be waived by the design review board during the site plan approval process upon determination that a larger building as designed will not dominate the neighborhood or its streetscape.

(4) A minimum of five percent (5%) and a maximum of thirty percent (30%) of the net development area shall be designated for commercial/service uses.

- (c) Restricted industrial uses.

(1) Traditional neighborhood developments may include industrial uses permitted under the I-1, restricted industrial district.

(2) A maximum of thirty percent (30%) of the net development area may be designated for restricted industrial uses.

(3) The maximum floor plate for any industrial building shall be twenty thousand (20,000) square feet, though this limitation may be waived by the design review board during the site plan approval process upon determination that a larger building as designed will not dominate the neighborhood or its streetscape.

- (d) Civic uses.

(1) The following civic uses shall be permitted if specifically included in the approved TND plan, otherwise they will be conditional uses once a TND plan is approved:

- a. Care centers
- b. Cemeteries and columbariums
- c. Churches and other places of worship, including parish houses and educational buildings
- d. Clubs and fraternal organizations
- e. Community swimming pools
- f. Convents and monasteries
- g. Group homes
- h. Hospitals and sanitoriums
- i. Libraries
- j. Museums and art galleries
- k. Nursing homes and assisted living facilities
- l. Public buildings, such as branch governmental centers, meeting halls, post offices
- m. Public or community recreational facilities not operated for profit
- n. Public utilities
- o. Schools and colleges for general education
- p. Other community facilities

(2) A minimum of two percent (2%) of the net development area shall be designated for civic uses. Public utility uses shall not be included in this percentage.

(e) Parks, squares, and other open space.

(1) Since net densities of individual blocks may be high in a TND, ample community open space shall be provided in parks, squares, and common open space distributed throughout the TND. In order for a parcel to be considered a park, a square, or common open space, it must be at least one quarter (1/4) acre in size. No residential unit of the neighborhood shall be located more than one quarter (1/4) mile (1,320 feet) from the boundary of a park, square, or common open space property. This requirement may be waived by the design review board during the site plan approval process in instances of unusual parcel shapes, the provision of ample private open space, or other mitigating factors.

(2) A minimum of ten percent (10%) of the net development area shall be designated for park, square, and/or common open space uses. At least 1.0 acre total of parks or squares shall be provided in the core area of the TND.

(f) Accessory and other associated uses. The following accessory uses and structures are permitted within a traditional neighborhood development:

- (1) Private and public garages
- (2) Private and public parking lots or structures

(3) Signs in commercial/service and restricted industrial areas according to Sec. 35.1-26 and the approved traditional neighborhood development design guidelines, provided no sign shall exceed the number and maximum area as stipulated in the Sec. 35.1-36. community business districts (B-3) regulations

(4) Signs in residential, civic, and public use areas according to Sec. 35.1-33(g). (Ord. No. O-98-013, 2-10-98; Ord. No. O-98-157, 7-14-98)

**Sec. 35.1-43.8. Setbacks in traditional neighborhood developments.**

In a TND, the fronts of buildings face on the public realm of the community (the sidewalks, streets, public parks and squares), while private yards and off-street parking are located to the rear. Therefore, buildings are to have minimal setbacks from the front property line. Commercial/service, multi-family residential, and single family attached residential buildings are generally recommended to have front setbacks of 0 to 10 feet, and single family detached residential buildings, front setbacks of 0 to 25 feet. The TND design guidelines shall set forth the required minimum and maximum setbacks for proposed TND buildings.

Summary of TND Size, Land Use, Setback, Density, and Bulk StandardsNeighborhood Size

Min. neighborhood size: 30 acres

Land Use Mix% of Net Development Area

	<u>Minimum</u>	<u>Maximum</u>
Parks, squares, & open space	10%	None specified
Civic	2%	None specified
Commercial	5%	30%
Industrial	None specified	30%
Residential	No less than commercial and industrial combined	80%

No more than 70% of the total residential units may be either single family, townhouse, or multifamily units.

Parks & Squares

Max. distance from all residential units to park or square: 1320 feet

Minimum park or square acreage in TND core: 1 acre

Setbacks

Specified by developer design guidelines.

	<u>Minimum</u>	<u>Maximum</u>
Recommended front setbacks		
Single family detached	0 feet	25 feet
Single family attached,		
Multifamily, commercial	0 feet	10 feet

Density and Bulk Standards

Maximum net density for residential uses: 29.04 du/ac

Maximum floor plate for any commercial/service or industrial building: 20,000 sf

(Ord. No. O-98-013, 2-10-98)

**Sec. 35.1-43.9. Streets, alleys, paths, and block patterns in traditional neighborhood developments**

(a) The transportation system in traditional neighborhood developments shall be modeled on a grid street and alley pattern modified to accommodate the topography of the site and parcel shape. Cul-de-sacs should be avoided to the extent possible and shall not exceed twenty percent (20%) of the total length of streets in the TND. This latter standards applies to streets, but not alleys.

(b) Private streets and alleys, built to standards as approved by the technical review committee, are permitted in TNDs. Such private streets and alleys are permitted to serve multiple lots and uses. In other

words, lots and uses are not required to have their own separate entrance on to a public street and may share a private street or alley entrance on to a public street. Private streets and alleys shall be maintained by the property owners association.

(c) All lots shall front on a public or private street or on a square. Alleys shall serve only the rear or sides of lots or uses.

(d) In the TND core area, the blocks created by the grid of streets shall have a maximum block perimeter of one thousand six hundred (1,600) feet, except in areas where the steepness of topography exceeds ten percent (10%). In the latter steep areas, the block perimeter may exceed one thousand six hundred (1,600) feet so as to reduce the number of streets constructed perpendicular to the steep slopes.

(e) In areas where multi-family residential, commercial/service, and restricted industrial uses predominate, sidewalks shall be provided on both sides of the street. In single-family detached and single-family attached residential areas, sidewalks shall be provided on at least one side of the street.

(f) Pedestrian and/or bicycle routes, lanes, or paths shall be provided to connect all uses and reduce motor vehicle use. Street design shall provide for the safety of pedestrians and bicyclists. (Ord. No. O-98-013, 2-10-98)

**Sec. 35.1-43.10. Parking requirements in traditional neighborhood developments.**

(a) Parking and loading spaces shall be provided as required in Sec. 35.1-25 of the city code except that on-street as well as off-street parking spaces shall be counted toward satisfaction of the requirements. On-street parking spaces assigned to a building or use shall be those spaces directly abutting the lot containing that building or use. All required handicapped parking spaces shall be provided off-street.

(b) Shared parking shall be permitted if approved by the technical review committee (TRC) during site plan review. Uses sharing parking need not be located on the same lot, but shall be located within the same block or an adjacent block. In approving shared parking, the TRC shall require the following:

(1) that the applicant show, through a study of peak parking needs for all proposed uses involved, that shared parking is feasible and that the number of spaces proposed is adequate to meet the projected parking demand at all hours;

(2) that the design and location of parking areas is convenient for sharing by customers, patrons, and residents of all properties involved;

(3) that a shared parking agreement that establishes responsibilities for parking lot maintenance and sets limits on hours of operation has been executed between all property owners involved and is binding on all tenants.

(c) Off-street parking and loading spaces shall be located behind or to the side of buildings and may be served directly or indirectly by alleys. The TND design guidelines shall specify how off-street parking and loading areas shall be landscaped and screened from public streets. (Ord. No. O-98-013, 2-10-98)

**Sec. 35.1-43.11. Traditional neighborhood development application and review.**

Traditional neighborhood developments are permitted only by conditional use permit as stated in Sec. 35.1-43.6(b) of this ordinance. Submission requirements and application review procedures are provided as follows:

(a) Submission requirements. An application for a TND shall include the following:

(1) A traditional neighborhood development plan prepared by a certified Virginia architect, landscape architect, or engineer with seal and signature affixed to the plan. The plan shall be drawn to scale, though it need not be to the precision of a finished engineered drawing. The plan shall be drawn to demonstrate

how the project will be designed to meet TND objectives as outlined in Sec. 35.1-43.5(b). It shall clearly show the following information:

- a. A vicinity map at a scale of no less than 1"=2000' showing the location of the property with regard to major roads, jurisdictional boundaries, and landmarks.
- b. Surveyed boundary of the site proposed for the TND.
- c. Site topography, at a contour interval of not more than five (5) feet, and other natural features including perennial streams, one hundred (100)-year floodplains, wooded areas.
- d. Lotting patterns, streets, existing uses, and zoning of adjacent lands within at least three hundred (300) feet of the site property boundary.
- e. Existing rights-of-way and easements, whether public or private.
- f. The general alignments of all proposed streets and alleys and transit facilities, as proposed, and their connections with such facilities in adjacent areas.
- g. The general location of proposed land uses within the blocks created by the public streets. Land uses may be identified as single land uses or mixes of land uses within the blocks. For some blocks, alternative land uses may be identified. For example, a block may be designated as either multi-family or civic use.
- h. The following general areas shall also be identified on the plan:
  1. the center of the TND (designated by a cross symbol (+)).
  2. the core area (designated by a "C")
  3. the transitional areas between the core area and neighborhood edge areas (designated by a "T")
  4. the neighborhood edge areas (designated by a "E")
  5. satellite areas (designated by a "S")
- i. The locations of proposed parks, squares, common open spaces, and civic use sites.
- j. Stormwater management areas and principal connections to public water and sewer facilities.
- k. A tabulation of the proposed program of development by general area outlined in h. above and in total providing:
  1. minimum and maximum dwelling units by residential type
  2. minimum and maximum non-residential square footages by use type (commercial, industrial, etc.)
  3. calculations of percentages of land area covered by the various land uses to show compliance with Section 35.1-43.7 of this code. The percentages may be displayed as ranges, rather than exact numbers, as long as compliance with Sec. 35.1-43.7 of the city code is shown.
- l. Signatures of the owners of all property included in the TND or of the property owners' authorized agent with the power of attorney to sign the application.
- (2) A set of written and illustrated design guidelines that shall include dimensional and qualitative specifications for the following:
  - a. Building height, setback, and bulk standards by land use type and general area outlined in h. above.
  - b. Illustrations of proposed TND blocks showing potential mixes of uses and illustrative building, parking, and alley layouts. Examples of the type of illustrations required are retained by the city planner.

c. Descriptions and illustrations of screening/buffering/transitions to be provided between residential and commercial/service/industrial uses.

d. Standards for the landscaping and lighting of streets and off-street parking and loading areas and for screening of views of off-street parking and loading areas from public streets.

e. Architectural guidelines for all building types; such guidelines need not set specific floor plans or elevations, but shall describe in general the style and materials of buildings.

(3) A written description of how the proposed plan and design guidelines for the TND meet the objectives outlined in Sec. 35.1-43.5(b).

(4) A statement regarding the timing of construction of common or public facilities.

(5) A general statement as to how parks, squares, common open spaces and common facilities are to be owned and maintained, and in particular which are to be public and dedicated to the city and which are to be private and maintained by a property owners association.

(b) Application review procedures.

A flow chart illustrating the TND application review process is retained by the city planner.

(1) Preapplication conference. The applicant shall meet with the staff of the planning division to review the TND regulations and to discuss the proposed plans of the applicant.

(2) Application submission and certification. The city planner shall review all application materials submitted by the applicant for completeness. Upon determination that the application is complete, the city planner shall notify the applicant and transmit the application to the technical review committee and the design review board.

(3) Review of the application by the technical review committee and the design review board.

a. The technical review committee shall consider the project's compliance with city codes and regulations and the ability of the city to provide services to the TND.

b. The design review board:

1. shall review the TND application, including the TND plan and design guidelines regarding their achievement of the objectives of traditional neighborhood development as outlined in Sec. 35.1-43.5(b);

2. shall consider the aesthetic and architectural relationships with the surrounding area; and

3. shall also comment on any proposed waiver of the minimum TND size requirement as permitted in Sec. 35.1-43.6(a).

c. The applicant shall attend meetings of both the technical review committee and the design review board.

d. Within thirty (30) days of referral, the technical review committee and the design review board shall forward their comments on the TND application to the city planner.

(4) Review of and decision on the TND application by the planning commission and city council.

a. Upon receipt of comments from the technical review committee and the design review board, the city planner shall set a date for a public hearing by the planning commission for the application. The city planner shall follow the procedures established for amendments to the zoning ordinance and official zoning map in Sec. 35.1-17(b), including the provision of a sign and notice to surrounding property owners.

b. After reviewing the TND application and holding its public hearing, the planning commission shall make its recommendation to the city council.

c. Upon receipt of a recommendation from the planning commission, the city council shall conduct its public hearing on the application. City council, in order to achieve the objectives of this section, may attach to its zoning resolution any additional conditions or requirements for the applicant to meet. (Ord. No. O-98-013, 2-10-98)

**Sec. 35.1-43.12. Traditional neighborhood development site plans.**

Prior to securing a building permit for any construction in a TND, approval of a preliminary and final site plan shall be obtained. The site plan shall conform to the conditions of the TND conditional use permit and may be submitted for the entire site, or a portion of the site if the development is to be phased. Procedures for review shall be the same as those outlined in Sec. 35.1-42.6 and 35.1-42.7 of the zoning ordinance with the TND plan serving as the sketch plan for the development. A flow chart illustrating the site plan review process is retained by the city planner. The technical review committee, prior to making its decision on the preliminary site plan, shall refer the plan to the design review board, which shall:

- (a) provide its comments on whether the site plan conforms to the approved TND plan and design guidelines, and
- (b) provide its decisions on whether the site plan warrants granting of any proposed waivers as permitted under Sections 35.1-43.7(b)(3), 35.1-43.7(c)(3), and 35.1-43.7(e)(1).

The technical review committee may also refer the final site plan to the design review board, if it has any questions regarding compliance with parts (a) and (b) of this section. (Ord. No. O-98-013, 2-10-98)

**Sec. 35.1-43.13. Traditional neighborhood development changes and appeals.**

The procedures of Sec. 35.1-42.8 of the zoning ordinance shall be followed if changes to the TND conditional use permit are requested or if the applicant wishes to appeal any decision of the city planner, technical review committee, or design review board. (Ord. No. O-98-013, 2-10-98)

**Sec. 35.1-44. Repealed. (O-82-080)**

**Editor's note**—Section 35.1-44 of App. A, concerning the special district provisions for historic districts, and derived unchanged from the zoning ordinance adopted Dec. 12, 1978, was repealed by Ord. No. O-82-080, § 2, enacted May 11, 1982.

**Sec. 35.1- 44.1. Historic districts (HD).**

- (a) Intent.

The purposes of the historic districts are to promote the public welfare through the creation of historic districts for the protection and preservation of historic buildings, structures, places, archaeological sites, and areas of historic interest (as a class of structural and environmental types) within the City of Lynchburg, as well as the development and maintenance of appropriate settings and environment for such buildings, structures, places and areas as provided by Section 15.2-2306 of the Code of Virginia (1950), as amended.

Some additional purposes of these districts are to stabilize and improve property values in the historic districts; encourage new buildings and developments that will be architecturally compatible with existing historic landmarks, buildings and structures; prevent the encroachment of additions or new buildings and structures that are architecturally incongruous with the environs of the historic districts; promote local historic preservation efforts, and encourage the identification and nomination of qualified historic properties and districts to the National Register of Historic Places and the Virginia Landmarks Register.

The preservation of historical places is intended to provide an educational resource and to foster a sense of pride in our heritage for succeeding generations, that they may appreciate and understand the history of our culture.

- (b) Definitions.



The following definitions apply to this historic districts ordinance:

(1) Alteration: Any change, modification or addition to a part of or all of the exterior of any building or structure.

(2) Certificate of appropriateness (COA): The approval statement signed by the historic preservation commission chair and/or the secretary that certifies the appropriateness of a particular request for the construction, alteration, reconstruction, repair, restoration, or demolition of all or a part of any building or structure within a historic district, subject to the issuance of all other permits needed for the matter sought to be accomplished.

(3) Certificate of appropriateness (COA) permit: The permit form signed by the historic preservation commission secretary that is accompanied by the certificate of appropriateness and provided to the inspections division for each certificate of appropriateness that is granted by the HPC, the secretary, or on appeal by city council. This permit form alerts the inspections division to activate the certificate of appropriateness.

(4) Commercial Historic Districts Design Guidelines: Downtown Lynchburg: A publication adopted by city council on September 25, 1986 and readopted by city council on December 10, 1991 that gives detailed guidance to property owners of the commercial historic districts who are contemplating changes or additions to their building or property; and assists the historic preservation commission by providing them with minimum standards to guide their decision making.

(5) Contributing property: Those properties which by reason of form, materials, architectural details and relation to surrounding properties contribute favorably to the general character of the historic district in which they are located.

(6) Demolition: The dismantling or tearing down of all or part of any building or structure and all operations incidental thereto.

(7) Exterior architectural features: The architectural style, general design and general arrangement of the exterior of a building, structure or object, including but not limited to the kind or texture of the building material and the type and style of all windows, doors, signs and other appurtenant architectural fixtures, details, features or elements.

(8) Historic district: A geographically defined area consisting of public and/or private property within the city, possessing a significant concentration, linkage, or continuity of sites, buildings or structures, areas of unique architectural value, landmarks or encompassing parcels of contiguous land united by past events or aesthetically by plan or physical development. A district may also comprise individual buildings or structures separated geographically but linked by association or history. A historic district shall further mean an area designated by city council as a historic district pursuant to the criteria established in (d)(1) of this ordinance. The historic district overlay zone defines the area in which the requirements of the historic districts ordinance shall apply. The historic district overlay zone shall be in addition to and shall overlay all other zoning districts where it is applied so that any parcel of land lying in the historic district overlay zone shall also lie within one or more of the other zoning districts provided by this ordinance.

(9) New construction: Any construction within a historic district that is independent and exclusive of an existing building or structure or part thereof in the historic district.

(10) Noncontributing property: A property so designated on the inventory map of historic districts and properties which are adopted as a part of this ordinance, being generally those properties which by reason of age, condition, amount of alterations, form, materials, architectural details and relation to surrounding properties do not contribute favorably to the general character of the part of the historic district in which they are located.

(11) Repairs in like material and like design: Any work or all work involving the replacement of existing material with equivalent material for the purpose of maintenance, but not including any addition, change or modification in construction design.

(12) Residential Historic Districts Design Guidelines: Building on the History of Lynchburg: A publication adopted by city council on September 25, 1986 and readopted by city council on December 10, 1991 that gives detailed guidance to property owners of the residential historic districts who are contemplating changes or additions to their building or property; and assists the historic preservation commission by providing them with minimum standards to guide their decision making.

(13) Restoration: Any or all work connected with the returning to or restoring of a building, or part of any building, to its original condition through the use of original or nearly original materials.

(c) The historic preservation commission.

There is hereby created and established a historic preservation commission, hereinafter referred to as the HPC, formerly known as the board of historic and architectural review, which shall consist of seven (7) members.

(1) Role. The role of the HPC is to administer the city's historic districts ordinance and to provide professional assistance and guidance to property owners in achieving appropriate alterations to their historic properties.

(2) Composition. The members of the HPC shall be appointed by city council and shall be residents of the City of Lynchburg. At least one (1) member of the HPC shall be an architect and at least one (1) member shall be an owner and a resident of property in a historic district that is defined as a neighborhood but excludes single-structure districts. Not more than one (1) person shall be appointed who is principally engaged in the buying and selling of, or investment in, real estate. All members shall have a demonstrated interest, competence and knowledge in historic preservation. At least two (2) members shall meet the Professional Standards Qualifications used by the National Park Service and published in the Code of Federal Regulations, 36 CFR Part 61.

(3) Terms of Office. All appointments shall be made for a term of three (3) years until they are reappointed or their successors are appointed. No member shall serve for more than three (3) consecutive terms. Within sixty (60) days after they occur, vacancies shall be filled by city council for the unexpired term.

(4) Organization; officers; meetings.

a. The HPC shall elect a chair and a vice-chair. The department of community planning and development shall designate an administrative liaison to act as the secretary to the HPC.

b. The HPC shall meet at such times as it may determine by resolution and in any event within thirty (30) days after notification by the HPC secretary of an application for a permit to erect, reconstruct, externally alter, move or restore, raze or demolish, a building, landmark, or structure noted lying within the confines of a historic district.

c. If any HPC member is absent without cause for three (3) consecutive meetings or is absent for four (4) meetings in any twelve- (12) month period, that member's position shall be deemed vacant.

d. A permanent record shall be kept of the resolutions, transactions, and determinations of the HPC. This record shall be kept and maintained in the department of community planning and development.

e. The HPC is authorized to adopt rules of procedure for its meetings and the administration of the historic districts ordinance.

(d) Historic districts.

(1) City council of the City of Lynchburg has adopted criteria for determination of landmarks, buildings, or structures to be designated as being historically significant. Any changes to said criteria shall be made by city council after receiving recommendations from the HPC.

(2) In order to execute the purposes and objectives of this ordinance, there may be created in the city districts to be known as "Historic Districts" in addition to any existing historic districts. A historic district may be a part or all of a neighborhood, site, structure or a combination thereof. The boundaries of such districts shall be as described in the ordinance as adopted by city council. The boundaries of such districts shall be shown on maps which shall be filed and maintained in the department of community planning and development.

(3) The procedure to be followed in establishing historic districts is specified in Section 35.1-17 of this code. However, due to the unique nature of a historic district designation relative to traditional zoning, consideration of designating an area as a historic district may be exempted by the city from the regulations cited in Section 35.1-17 with the exception of the public hearing requirements to appear in the local newspaper as specified in Section 35.1-19 of this code. The posting of a sign giving notice of intent to rezone may be waived by the city. In the case of historic district consideration, in addition to other requirements, a fee may be required from the petitioner in the amount set forth in the fee schedule adopted by city council to cover the cost of publishing legal notices for hearings before the HPC, the planning commission and the city council.

(4) A notice that a building may be designated as a "historic district" shall be sent by registered or certified mail to the present owners as disclosed by the landbooks of the city, which notice shall contain the following information: the location and street address; the reason why the building and/or the district in which it is proposed to be located is deemed to be of historic or architectural interest; a copy of the pertinent portions of this ordinance restricting the altering or razing of said building; the place, time and date of the public hearing of the HPC.

(5) The HPC, the planning commission, city council, any petitioner with a petition signed by five (5) registered voters, or the owner of any landmark, building, or structure in the City of Lynchburg, including those listed on the Virginia Landmarks Register or the National Register of Historic Places, may make a written request of the HPC for the consideration of recommending the designation of such landmarks, buildings, or structures as a historic district. The HPC shall recommend the requested addition if, after a public hearing pursuant to Section 35.1-19, it considers said building to be of historic, architectural, or cultural merit as based on the criteria cited in subsection (d)(1).

(6) The HPC, the planning commission, city council, the owner or owners of any landmark, building or structure located within a historic district may make a written request of the HPC for the consideration of recommending the removal of the historic district designation from such landmark, building, or structure. Procedure for notification of a public hearing to remove a designation as a historic district shall be the same as the procedure to establish such designation.

(e) Historic marker.

The HPC shall designate an appropriate marker and may permit each owner of a historic landmark, building or structure to display the marker in an appropriate manner. In addition, the HPC may at its discretion design and display similar markers denoting "historic districts." The costs of making, inscribing, installing and maintaining such markers shall be paid for by the City of Lynchburg. The costs of making, inscribing, installing and maintaining private individual markers shall be paid for by the property owner.

(f) Unauthorized display.

It shall be unlawful for any person to display, without the authorization of the HPC, a marker or any imitation thereof as provided for in subsection (e).

(g) Certificate of appropriateness.



Within a historic district, no building or structure, including signs, and including non-contributing buildings and structures and signs, shall be erected, reconstructed, restored, demolished, or altered in any way that affects the external appearance of the building or structure, including such items as roofs, chimneys, fences, and color changes, unless the same is approved as being architecturally compatible with historic landmarks, buildings, or structures therein through the issuance of a certificate of appropriateness, also referred to as a COA, by the HPC, the secretary or by city council. A certificate of appropriateness permit shall be provided to the inspections division from the secretary for each certificate of appropriateness that is granted by the HPC, the secretary, or on appeal by city council. No building permit or demolition permit to authorize any erection, reconstruction, alteration or demolition that affects the external appearance of any landmark, building or structure, or part thereof in a designated historic district, shall be issued until a certificate of appropriateness is issued by the HPC or city council. The decision of the HPC shall be final except where an appeal is timely made to city council pursuant to subsection (j).

Certain minor actions, which are deemed not to permanently affect the character of the historic district, may be exempted from review by the HPC, but the secretary of the HPC shall be notified of the proposed actions and may review and approve the alterations administratively or refer the proposed alterations to the HPC. Such actions shall include the following and any similar actions which in the opinion of the HPC secretary will have no more effect on the character of the district than those listed:

Repainting resulting in the same color scheme, in a different color scheme, or in a color scheme previously approved by the HPC. (Initial painting of masonry surfaces is not exempted from review by the HPC.)

Addition or deletion of storm windows and doors, window gardens, awnings, temporary canopies or similar appurtenances and window air conditioners.

Addition of television or radio antennas, satellite dishes, skylights or solar collectors.

The building commissioner or his/her designee shall have the authority to order that work be stopped and that an application for the issuance of a certificate of appropriateness be filed in any case where in his/her opinion the action may exceed the conditions listed above. The building commissioner or his/her designee shall report this action to the HPC secretary; however, in all cases the decisions may be appealed to the HPC, and a determination shall be made by the HPC on such appeal within thirty (30) days.

(1) Notice to affected property owners when certificate of appropriateness is to be issued; hearing to be afforded affected property owners. Whenever the HPC finds that the issuance of a certificate of appropriateness and the exercise of the rights and privileges granted thereby will, or is likely to, materially and adversely affect the property or the value thereof of another within two hundred feet of the subject property, the HPC shall, before the issuance of the certificate of appropriateness, give due notice of its intention to do so to the owner of such affected property and afford such owner an opportunity to be heard with respect thereto, and the certificate of appropriateness shall not be issued until such notice is given and opportunity afforded. In cases where the HPC deems it necessary, it may hold a public hearing concerning the application after notice has been given as provided for in Section 35.1-19 of this code.

The time within which such certificate of appropriateness may be issued shall, if necessary, be extended for such additional time as is required to give such notice and allow such hearing.

(2) Procedure for review of application. Applicants for review involving alterations and/or additions to existing historic structures or the erection of any new structure within a historic district shall submit to the HPC appropriate documentation, which may include, where appropriate, preliminary drawings and outline specifications, including color samples and photographs.

a. As used herein, drawings shall mean plans and exterior elevations drawn with sufficient detail to show, as far as they relate to exterior appearances, the architectural design, including proposed materials, textures and colors, and including samples of materials and color samples and a plot plan of all improvements affecting appearances of walls, walks, terraces, accessory buildings, lights, and other elements.

b. Legible photographs of all sides of a structure to be reviewed for repair, alteration, or additions will be submitted to the HPC. In the event of new construction, legible photographs of the adjoining and opposite properties may be required.

c. Applications for maintenance involving only a color change will include samples of the proposed colors.

(3) Standards. All decisions of the HPC shall be consistent with standards established by the secretary of the United States Department of the Interior. In addition to using the secretary of the United States Department of the Interior's Standards to guide decisions, the HPC, or city council on appeal, shall consider the following items in considering the appropriateness of architectural features:

a. General form and composition of proposed construction (shape of proposed structure in plan, relationship between width and height of elevation).

b. Setback and placement on lot.

c. Exterior construction materials (textures, patterns, and colors).

d. Architectural detailing (molding on cornices, finals, and cresting on roofs, gable ornaments, lintels).

e. Roof shapes.

f. Windows (relationship of width to height, location) and doors.

g. Height.

h. Porches (shape, style, size, location) and steps.

i. Walls, fences, walkways, pools, fountains, gazebos, gates, sidewalks, streets, signs, and accessory structures.

j. Enclosure (materials, location, height), such as outbuildings, roofed enclosures, and similar type structures.

k. Other features that have an impact on the historic and/or architectural character of the property.

Such compatibility shall be based on a comparison with significant, similar structures within the district and the residential or commercial historic districts design guidelines, as adopted by city council. The HPC shall also consider the economic feasibility and impact of the proposed repairs, alterations, additions, or new construction.

(4) Action of HPC.

a. Within thirty (30) days of receipt of an application for a certificate of appropriateness, the HPC shall meet to review such application. The applicant shall be informed of the time and place at which the HPC will consider the application, and the applicant shall have an opportunity to be heard. The HPC shall approve or deny the request and notify the applicant of same within thirty (30) days after the first meeting.

b. Certificates of appropriateness issued by the HPC shall expire of their own limitations six (6) months from the date of issuance, if work authorized thereby is not commenced within that time, and shall also expire and become void if such authorized work is suspended or abandoned for a period of ninety (90) days. Any period of time during which the use of such certificate of appropriateness is stayed, pursuant to appeal or court action, is excluded from the computation of the said ninety (90) days.

c. The work authorized by the certificate of appropriateness shall be completed within twelve (12) months of the date of issuance of the certificate of appropriateness, unless, for good cause shown, the HPC determines that a longer period is warranted and the HPC secretary shall be notified by the inspections division of the completed work. If the work authorized by the certificate of appropriateness is not completed within the allotted twelve (12) months or within such longer period as may have been approved by the HPC, the secretary shall be notified by the inspections division and the applicant shall be required to apply in

writing for an extension of time to complete the work authorized by the certificate of appropriateness. The HPC or the secretary may grant one or more ninety (90) day-extensions of time for completing the work authorized by the certificate of appropriateness. The failure to meet the deadlines in the certificate of appropriateness will result in the revocation of the certificate, and any work done after the owner has been notified of the revocation is punishable as a violation of the zoning ordinance.

d. If the HPC disapproves such plans, it shall state its reason for so doing and shall transmit a record of the reasons therefore in writing to the city building commissioner or his/her designee and to the applicant. No further action shall be taken by the city building commissioner or his/her designee to issue a construction permit. The applicant may modify his/her application in regard to the HPC's recommendations and shall have the right to resubmit his/her application to the HPC for its recommendation.

(5) Action of the applicant.

Within ten (10) business days after the HPC shall approve a certificate of appropriateness, the secretary shall issue a certificate of appropriateness with the certificate of appropriateness permit for the work authorized and forward it to the inspections division for entering into the inspections division permit system.

(6) Issuance of the certificate of appropriateness.

a. If the HPC approves the application, it shall issue a certificate of appropriateness dated and signed by the secretary. The secretary shall also stamp all prints and other documents submitted to the HPC signifying its decision.

b. Any person to whom a certificate of appropriateness has been issued may commence work at his/her own risk during the fifteen- (15) day appeal period provided for in subsection (j).

(7) Notification by the building commissioner or his/her designee. The building commissioner or his/her designee shall notify the HPC secretary upon completion of work approved in the certificate of appropriateness.

(8) Required for demolition. Subject to the provisions of subsection (i) of this ordinance, no historic landmark, building or structure within a historic district shall be razed, demolished or moved until the razing, demolition or moving thereof is approved by the HPC, or, on appeal, by city council.

(h) Requirement to provide ordinary maintenance or repair.

(1) Property owners in historic districts (and citywide) shall not allow their buildings and structures to deteriorate by failing to provide ordinary maintenance or repair. The building commissioner or his/her designee is charged with such responsibilities regarding deterioration by neglect, as provided by the current BOCA National Property Maintenance Code. Historic properties must be maintained in accordance with the standards of the Uniform Statewide Building Code.

(2) Removal of exterior features for any reason, whether due to neglect, deterioration, damage or willful removal is a violation of this ordinance and subject to penalties as set forth in zoning ordinance Section 35.1-20(a). Removal of exterior features is not a violation of the historic districts ordinance if the removal is ordered by the building commissioner pursuant to the provisions of the Uniform Statewide Building Code.

(i) Demolition and moving. In addition to the right of appeal hereinafter set forth in subsection (j), the owner of a historic landmark, building or structure, the razing or demolition of which is subject to the provisions of subsection (g) hereof, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that:

(1) The owner has applied to the city council for such right; and,

(2) The owner has for the period of time set forth in the time schedule hereinafter contained and at a price reasonably related to its fair-market value as determined by the current assessment on the city assessor's records or, upon the owner's request by an appraisal committee which shall be appointed by city council and composed of two (2) local licensed real estate brokers and a local banker, made a bona fide (specifics of which are to be determined by the HPC, which may include but not be limited to national and internet advertising) offer to sell such landmark, building, or structure, and, if necessary, the land pertaining thereto, to the city, or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing and able to preserve and restore the landmark, building or structure and the land pertaining thereto; and,

(3) That no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of city council, whether instituted by the owner or by any other party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by city council, but hereafter the owner may renew his/her request to city council to approve the razing or demolition of the historic landmark, building or structure.

(4) The time schedule for offers to sell shall be as follows: three months when the offering price is less than twenty-five thousand dollars (\$25,000); four months when the offering price is twenty-five thousand dollars (\$25,000) or more but less than forty thousand dollars (\$40,000); five months when the offering price is forty thousand dollars (\$40,000) or more but less than fifty-five thousand dollars (\$55,000); six months when the offering price is fifty-five thousand dollars (\$55,000) or more but less than seventy-five thousand dollars (\$75,000); seven months when the offering price is seventy-five thousand dollars (\$75,000) or more but less than ninety thousand dollars (\$90,000); and twelve months when the offering price is ninety thousand dollars (\$90,000) or more.

(j) Appeals.

(1) Whenever the HPC shall, in a final decision, deny an application for a certificate of appropriateness, the applicant for such certificate of appropriateness shall have the right to appeal to and be heard before the city council; provided that he/she files with the clerk of the city council within 15 days after the decision by vote of the HPC, a notice in writing of his/her intention to appeal.

(2) Upon receipt of such notice, the clerk of the city council shall promptly schedule a public hearing as soon as reasonably practical after complying with the appropriate notice requirements. Notice of the hearing shall be given as provided by Section 35.1-19 of this code. Each such appeal shall be accompanied by a check or money order in the amount set forth in the fee schedule adopted by the city council to cover the costs in connection with this notice.

(3) Opponents to the granting of certificates of appropriateness by the HPC shall have the right to appeal to and be heard before the city council, provided there is filed with the clerk of the city council within fifteen (15) days after the decision by vote of the HPC a written petition, signed by at least 25 registered voters of the city, indicating their intention to appeal. Upon receipt of such notice, the clerk of the city council shall promptly schedule a public hearing as soon as it is reasonably practical for city council after complying with notice requirements. Notice of the hearing shall be given as provided by Section 35.1-19 of this code. Costs of advertising appeal hearings requested by said opponents will be paid by the opponents in the amount set forth in the fee schedule adopted by the city council.

(4) On any such appeal, the final decision of the HPC appealed from shall be stayed pending the outcome of the appeal to city council, except that the filing of such appeal shall not stay the decision of the HPC if such decision denies the right to raze or demolish a historic landmark, building or structure. The city council shall conduct a full and impartial public hearing on the matter before rendering any decision. The same standards and considerations aforesaid in Subsection (g)(3) of this section shall be applied by city



council as are established for the HPC. The city council may affirm, reverse or modify the decision of the HPC, in whole or in part. The decision of city council, subject to the provisions of Subsection i., shall be final. If approved, a certificate of appropriateness, signed by the clerk of the city council, shall be issued to the applicant.

(k) Appeal to the circuit court.

Within thirty (30) days after any final decision is rendered by city council pursuant to this section, an aggrieved party may appeal as a matter of right to the circuit court for the city by filing a petition at law setting forth the alleged illegality of the action by city council. The filing of the said petition shall stay the decision of the city council pending the outcome of the appeal to circuit court, except that the filing of such petition shall not stay the decision of city council if such decision denies the right to raze or demolish a historic landmark, building or structure.

(l) Conflict with statutes, local ordinances or regulations.

Whenever the regulations made under authority of this chapter require a greater width or size of yards, courts or other open spaces, require a lower height of building or less number of stories, require a greater percentage of lot to be left unoccupied or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this chapter shall govern. Whenever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces, require a lower height of building or a less number of stories, require a greater percentage of lot to be left unoccupied or impose other higher standards than are required by the regulations made under authority of this chapter, the provisions of such statute or local ordinance or regulation shall govern.

(m) Assistance of city administration.

The departments, bureaus, divisions, boards, commissions, agencies, and other offices of the city government shall furnish to the HPC such available information and render it appropriate service as may be required for the exercise of the powers and performance of the duties and functions of the HPC. All city departments and agencies responsible for historic public buildings, monuments, districts, and places shall submit an application to demolish, move, or alter said structures or places to the HPC for review and recommendation.

(n) Acquisition of historic real property.

The HPC may recommend to city council that the city acquire in any legal manner any historic area, landmark, building or structure, land pertaining thereto, or any estate or interest therein which, in the opinion of the HPC, should be acquired, preserved and maintained for the use, observation, education, pleasure and welfare of the people.

(o) Injunctions.

Wherever any person has engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of this ordinance, the building commissioner or his/her designee may make application to the circuit court for an order enjoining such act or practice, or requiring such person to refrain from such prospective violation, or to remedy such violations by restoring the affected property to its previous condition. Upon proof by the building commissioner that such person has engaged in or is about to engage in any such act or practice, a temporary or permanent injunction, restraining order or other appropriate order shall be granted to the building commissioner or his/her designee.

(p) Penalties.

For violations and penalties, see Section 35.1-20 of the zoning ordinance.

(q) Separability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby. (Ord. No. O-82-080, § 1, 5-11-82; Ord. No. O-86-130, § 1, 6-10-86; Ord. No. O-01-146, 7-10-01)

**Sec. 35.1- 45. Flood hazard districts: flood way districts (FW), flood way fringe districts (FF), and approximated flood plain districts (AFP).**

(a) Intent. These districts are to provide primarily for the preservation and protection of lives and property in the flood plain areas of the city as well as to satisfy the federal emergency management agency (FEMA) requirements for full compliance with the national flood insurance program to:

- (1) Prevent the loss of life and excess damage to property in flood hazard areas.
- (2) Promote health and safe use of flood plains and avoid disruption of commerce and industry, extraordinary public expenditures for flood relief and the impairment of the tax base.
- (3) Restrict or prohibit uses which are dangerous to health, safety or property in times of flood.
- (4) Require that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction.

(b) Boundaries. The boundaries of the flood zoning districts will be shown on the official zoning map, as they become available, and shall be determined by the water surface profiles, and, in the event of conflict between the boundaries shown on the official zoning map and the water surface profiles, the water surface profiles shall control. Applicants for a building permit must ensure to the satisfaction of the building inspector and the board of zoning appeals that the building site is not in a flood plain.

The building official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for requiring that new construction, substantial improvements or other development in Zone A comply with applicable sections of this ordinance.

(c) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. This ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

(d) Establishment of zoning districts. The flood hazard areas within the jurisdiction of this ordinance are hereby divided into three (3) sections: floodway districts (FW), floodway fringe districts (FF) and approximated flood plain districts (AFP).

The basis for the delineation of these districts shall be the flood insurance study (FIS) for the City of Lynchburg, Virginia, prepared by the federal emergency management agency (FEMA), federal insurance administration, dated November 16, 1983, or as amended. Any changes in the delineation are subject to the prior approval of the federal insurance administrator.

(1) The floodway district is delineated for purposes of this Ordinance using the criteria that a certain area within the flood plain must be capable of carrying the waters of the one hundred (100) year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this district are specifically defined in Table 2 of the above-referenced flood insurance study and shown on the accompanying flood boundary and floodway map.

(2) The flood-fringe district shall be that area of the one hundred (100) year flood plain not included in the floodway district. The basis for the outermost boundary of this district shall be the one hundred (100) year flood elevations contained in the flood profiles of the above-referenced flood insurance study and as

shown on the accompanying flood boundary and floodway map, November 16, 1983, and subsequent revisions.

(3) The approximated flood plain district shall be that flood plain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100) year flood plain boundary has been approximated. Such areas are shown on the flood boundary and floodway map and/or flood insurance rate map. Where the specific one hundred (100) year flood elevation cannot be determined for this area using other sources of data such as the U. S. army corps of engineers, flood plain information reports, U. S. geological survey flood prone quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the city.

(e) Alteration or relocation of a watercourse.

(1) Prior to any proposed alteration or relocation of any channels or floodways of any watercourse, stream, etc., within the City of Lynchburg, the following procedures shall apply:

a. Notification shall be given by the developer to the federal emergency management agency (FEMA) for work in any stream, watercourse, etc., identified in the flood insurance study (FIS) for the City of Lynchburg.

b. Approval shall be obtained from the City of Lynchburg for work in any stream, watercourse, etc. in Lynchburg. The developer may be required to provide hydrologic and hydraulic analyses for approval.

c. Notification shall be given by the developer to the state division of soil and water conservation, (department of conservation and recreation), for any proposed work in any stream, watercourse, etc. in the City of Lynchburg and any required permits obtained before work will be permitted. A permit from the U. S. Army Corps of Engineers and the Virginia Marine Resources Commission, and certification from the Virginia State Water Control Board, may be necessary. (A joint permit is available from any of these agencies.) It shall be the responsibility of the developer to obtain all necessary permits. Further notification shall be given by the developer to all adjacent affected jurisdictions, as determined by the City of Lynchburg. Copies of this notification shall be forwarded to the Lynchburg planning division and any affected counties.

d. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways of any water course, drainage ditch or any other drainage facility or system.

(2) All proposed development within flood hazard areas will be reviewed to assure that all necessary permits have been obtained from those governmental agencies from which approval is required by federal or state law, including Section 404 of the federal water pollution control act amendments of 1972, 33 V.S.C. 1334.

(f) Prohibited uses: floodway district (FW). The following structures and uses are hereby prohibited in the floodway district:

(1) The storage or processing of materials that are pollutants, buoyant, flammable, poisonous, explosive or could be injurious to human, animal or plant life in time of flooding or that have high flood damage potential.

(2) Garbage and waste disposal facilities including any further encroachment upon the floodway at existing sites.

(3) Recreational uses which use fencing to surround the playing area—such as tennis courts or fenced ball fields.

(g) Uses permitted by right: floodway district (FW). The following uses shall be permitted within the floodway district; provided that they are not prohibited by any other ordinance, and, provided further, that encroachments, including fill, new construction, substantial improvements and other development within the floodway district shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(1) Agricultural uses such as general farming, pasturing, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.

(2) Industrial—commercial uses such as loading areas, parking areas, airport landing strips.

(3) Recreational uses such as temporary festivals operated by nonprofit organizations, golf courses, driving ranges, archery ranges, picnic areas, boat launching ramps, parks, swimming areas, fish hatcheries, wildlife preserves, game farms, target ranges, hiking and horseback trails and hunting and fishing areas.

(4) Residential uses such as lawns, gardens, parking areas and play areas.

(5) Transportation and service uses such as streets, bridges, pipes and pipelines, utilities and railroads, provided:

a. new and replacement water supply systems are to be designed to minimize or eliminate infiltration of flood waters into the systems; and

b. (i) new and replacement sanitary sewage systems are to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and (ii) onsite waste disposal systems are to be located to avoid impairment to them or contamination from them during flooding.

(h) Uses permitted by conditional use permit: floodway district (FW). Certain conditional uses may be allowed within the floodway district provided they comply with the regulations of Section 35.1-15 and Article X of this ordinance. However, encroachments, including fill, new construction, substantial improvements and other development within the floodway districts, shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Conditional uses include the following:

(1) Structures accessory to open space.

(2) Circuses, carnivals and similar transient amusement facilities.

(3) New and used car lots, roadside stands.

(4) Extraction of sand, gravel and other natural materials.

(5) Marinas, boat rentals, docks, piers, wharves.

(6) Storage yards for equipment, machinery or materials.

(7) Residential structures. All new construction and substantial improvements shall have the lowest floor (including basement) elevated to at least one (1) foot above the one hundred (100) year flood level. Accessory land uses such as yards, parking areas and railroad tracks may be placed at lower elevations.

Residential structures will have a means of ingress and egress to land outside the flood hazard district which is above the one hundred (100) year flood level. The means of pedestrian ingress and egress shall be a minimum of fifteen (15) feet wide, or five (5) feet wide if equipped with handrails or other safety features. Such structures will also have a means of ingress and egress to land outside the flood hazard district for emergency vehicles.

All manufactured homes to be placed or substantially improved within the Flood Hazard District shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the applicable provisions of the city.

(8) Nonresidential structures. All new construction and substantial improvements shall have the lowest floor (including basement) elevated to at least one (1) foot above the one hundred (100) year flood level or "floodproofed" in accordance with the requirements of the Virginia Uniform Statewide Building Code.

(9) Fill.

a. Any fill or materials proposed to be deposited in the flood hazard district must be shown to have some beneficial purpose and the amount thereof shall not be greater than on a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.

b. Such fill or other materials shall be protected against erosion by riprap, bulkheading or vegetative cover.

c. The applicant must show that construction of the fill will not cause damage to upstream properties by raising the flood surface profile.

(10) Mechanical and utility equipment. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(11) Use of openings in enclosures below a structure's lowest floor. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding and that are used solely for parking of vehicles, building access or storage in an area other than a basement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(12) Other uses similar in nature which are consistent with the provisions put forth in the statement of intent.

Storage of materials or equipment, not prohibited in Subsection 35.1-45(f)(2), may be allowed if it is not subject to damage by floods and is either firmly anchored to prevent flotation or easily removable from the designated area within the time available after an official flood warning has been issued.

(i) Uses permitted by right: floodway fringe district (FF). Any use permitted in the floodway district (FW) may be permitted within the floodway fringe district (FF) provided it is not in conflict with any existing ordinances.

(j) Uses permitted by conditional use permit: floodway fringe district (FF). The following conditional uses will be permitted within the floodway fringe district provided they comply with the regulations of Section 35.1-15 and Article X of this ordinance.

Conditional uses permitted in the floodway district (FW).

(k) Uses permitted by right: Approximated flood plain district (AFP). Any use permitted in the floodway district (FW) and floodway fringe district (FF) may be permitted within the approximated flood plain district (AFP) provided it complies with the regulations of Section 35.1-45(d)(3) of this ordinance and is not in conflict with any existing ordinances.

(l) Uses permitted by conditional use permit: Approximated flood plain district (AFP). Any conditional use permitted in the floodway district (FW) and floodway fringe district (FF) may be permitted in the

approximated flood plain district (AFP) provided it complies with Sections 35.1-15; 35.1-45(d)(3) and Article X of this ordinance.

(m) Floodproofing measures. When the board of adjustments and appeals declares that a structure must provide watertight floodproofing before issuance of a use, conditional use or variance permit may be allowed, the applicant for said permit will submit a plan or documents certified by a professional engineer and/or architect registered in the Commonwealth of Virginia, that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for that particular area.

(n) Regulation of real estate sales in flood hazard areas.

(1) Any owner or partial owner of real estate or his agent and any real estate broker or his agent who contracts to sell or sells real estate subject to a flood plain regulation without first notifying in writing the buyer or his agent that such real estate is subject to flood plain regulation shall be guilty of a class 3 misdemeanor. Such an offense carries a fine of not more than five hundred dollars (\$500.00). In addition, the buyer shall have the right to rescind the contract and the right to recover damages sustained by the buyer, whether or not the contract is rescinded.

(2) Flood plain regulation referred to in Subsection (1) above includes zoning ordinances, subdivision regulations and building codes which impose restrictions specifically related to flooding on the whole or a portion of the lands.

(o) Development standards for public and private utilities. See Section 35.1-76.

(p) Variances to flood hazard district regulations. See Section 35.1-13(c).

(q) Building permits in flood plain district. All building permit applications issued for the flood plain district shall incorporate the following information:

(1) For structures that have been elevated, the elevation of the lowest floor (including basement);

(2) For structures that have been floodproofed (nonresidential only), the elevation to which the structure has been floodproofed;

(3) The elevation of the one hundred (100) year flood. (Ord. No. O-78-352, 12-12-78; Ord. No. O-86-087, 5-13-86; Ord. No. O-87-046, 3-10-87; Ord. No. O-89-150, 6-13-89; Ord. No. O-92-365, 12-8-92)

## **ARTICLE X. DEVELOPMENT STANDARDS**

### **Sec. 35.1- 46. Legislative intent.**

Many of the regulations and procedures included in this ordinance require special attention to individual land uses for which the general standards of height, bulk, density, access, and other limitations cannot provide adequate control. Fairness requires that explicit standards be provided for uses and structures to be permitted through site plan review and conditional use procedures. This article provides such standards.

### **Sec. 35.1- 47. General standards.**

All uses and structures for which a conditional use permit or site plan review permission is required shall conform to the following general standards:

(a) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it shall be such that it will be in harmony with the appropriate and orderly development of the district in which it is located.

(b) The location, nature and height of buildings, walls and fences and the nature and extent of the landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

(c) Operation in connection with any special use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristics than would be the operations of any permitted use not requiring a special permit.

(d) Parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

(e) Public utility service (electricity, sewerage, storm drainage, and water) will be adequate to service the proposed use and will have suitable access thereto, and the proposal will not overburden existing facilities; or, any on-site water supply, sewage treatment, storm drainage disposal, or power plant proposals will be adequate to serve the proposed use.

(f) In addition, uses shall conform to specific standards as set forth in the remainder of this article.

(g) The site of the proposed development is served by public sewers and water supply, and waste disposal will be provided to an extent acceptable to the director of community services and the city health officer.

**Sec. 35.1- 48. Air ports.**

In conservation districts (R-C) a conditional use permit may be approved for an airport if the proposed facility meets the following standards:

(a) In general, the proposed airport is an appropriate use of the land and will not duly interfere with surrounding land uses.

(b) Due consideration has been given and documented of other sites in the light of the standards contained herein and other appropriate considerations.

(c) The proposed facility will meet the standards and requirements of the federal aviation administration.

(d) The airport is of such size, with the runways so located, that the operation thereof, in accordance with the standards and requirements of the federal aviation administration, will not require limitation of the heights of structures on adjacent land to be less than the height limit specifically prescribed for the district in which such land is situated.

(e) Every land area used by any aircraft under its own power shall be provided with a dustless surface.

(f) No area used by any aircraft under its own power shall be located within a distance of two hundred (200) feet from any property line; one thousand (1,000) feet from any public or private institution where airport operations could interfere with the work of the institutions, including schools, hospitals, sanatoriums, and churches; or one thousand (1,000) feet from any residential or commercial zones on the approach and departure ends of the runway. Buildings, hangars, or other structures shall be at least two hundred (200) feet from any property line and no parking of vehicles shall be allowed within one hundred (100) feet of any property line.

(g) The airport shall be surrounded by a substantial fence not less than six (6) feet in height, with suitable gates, effectively controlling access to such area.

(h) Appropriate accessory uses may be permitted, such as restaurants and snack bars, auto rental agencies, airline business offices, and service facilities, but not manufacturing as an accessory use.

(i) The application shall be referred to the federal aviation administration for the report of such agency as to whether operations relating to such airport will interfere with those of other existing or proposed airports in the vicinity.

(j) Adequate off-street parking and loading spaces shall be provided to serve airport activities and accessory uses. The number of parking and loading spaces to be required shall be determined by the division of planning.

**Sec. 35.1-49. Antique stores.**

Antique stores permitted by conditional use permit in conservation districts (R-C) shall meet the following standards:

(a) Off-street Parking shall meet the requirements stated for retail use in Section 35.1-25 of this ordinance and shall be so shielded that it is not visible beyond any lot line except the front lot line.

(b) No storage of merchandise shall be located outside structures and no display of merchandise shall be outside structures within two hundred (200) feet of any lot line except the front lot line.

(c) The design of structures used for the storage or sale of antiques shall be compatible with that of other structures in the vicinity.

**Sec. 35.1- 50. Are nas, audi to ri ums and sta di ums.**

Arenas, auditoriums and stadiums developed within the boundaries of the City of Lynchburg shall meet the following standards:

(a) The principal vehicular access for such use shall not be located on a freeway or local street, but shall be located on an arterial or on a collector street within one-quarter (1/4) mile of a freeway or arterial highway.

(b) Such use shall not draw vehicular traffic to and through local streets in nearby residential areas.

(c) Such use shall not be located within two hundred (200) feet of a residential district. No racing of automobiles shall be permitted within one (1) mile of any residential district.

(d) Adequate reservoir space at the vehicular entrance and sufficient vehicular entrances and exits shall be provided to prevent traffic congestion.

(e) Vehicular entrances and exits for such use shall be provided separately and shall be located not less than one hundred (100) feet apart.

(f) Due consideration shall be given to the proximity of bus and transit facilities to serve such use.

(g) No building shall be located at a distance of less than one hundred (100) feet from any lot line.

(h) Off-street parking and loading berth requirements:

One (1) parking space per three (3) spectator seats.

One (1) parking space per ten (10) square feet of additional places for spectators provided by the establishment.

One (1) parking space per employee.

Five (5) loading berths per main entrance.

Five (5) loading berths for service vehicles.

(i) No automobile parking space shall be located within any required setback area or within fifty (50) feet of any lot line.



(j) The maximum developmental coverage shall not exceed fifty per cent (50%) of the lot. (Ord. No. O-89-201, 7-11-89)

**Sec. 35.1- 51. Automobile service stations.**

Automobile service stations, permitted by conditional use permit in B-3, B-4, I-1 and I-2 districts, shall meet the following standards. These standards shall also be used as a guide in the review of site plans for automobile service stations in B-5 and I-3 districts.

(a) When such use abuts a residential zone or institutional premises not recommended for commercial or industrial uses in the comprehensive plan and is not effectively screened by a natural terrain feature, the use shall be screened by a solid wall or a substantial, solid fence not less than five (5) feet and not more than eight (8) feet in height, together with a planting strip at least four (4) feet in width on the outside of such wall or fence, planted with shrubs or trees which are at least three (3) feet high at the time of planting and are a type that is normally considered to be good screening material. Visibility at intersections shall be as provided for in Section 35.5-3(J). Screening shall not be required on street frontage.

(b) When such use occupies a corner lot, the ingress and egress driveways shall be located at least twenty (20) feet from the intersection of the front and side street lines of the lot and such driveways shall not exceed thirty (30) feet in width. Provided that in areas where no right-of-way has been designated, the street line shall be considered to be at least forty (40) feet from the center line of any abutting street or highway.

(c) Gasoline pumps or other service appliances shall be located on the lot at least fifteen (15) feet behind the building line and canopies over gasoline pumps shall not extend nearer than twenty (20) feet to all the property lines. All service, storage or similar activities in connection with such use shall be conducted entirely within the building. There shall be at least twenty (20) feet between driveways on each street, and all driveways shall be perpendicular to the curb or street line.

(d) Light automobile repair work may be done at an automobile service station; provided, that no major repairs, spray paint operations or body or fender repair is permitted.

(e) Vehicles shall not be parked so as to overload the public right-of-way. No unlicensed vehicle or junked or wrecked vehicle will be permitted to be parked or stored on the premises, and no trucks, trailers or school buses will be permitted to remain parked or stored upon the premises unless being worked upon or being serviced by employees of the station.

(f) There shall be no uncovered sheds, storage bins or similar facilities erected or permitted to remain on the premises.

(g) Automobile rental agencies shall be permitted in automobile service stations when they are otherwise permitted in the district where the station is permitted. One (1) off-street parking space per automobile available for rent shall be provided in addition to other off-street parking requirements.

(h) The minimum lot size for any automobile service station built under these regulations shall be twenty thousand (20,000) square feet.

(i) Exterior lighting shall be of such type, height and location and have such shading as will prevent the light source from producing an excessive level of illumination. For purposes of this regulation, a source of light shall be deemed to include any transparent or translucent covering. No flashing, revolving or intermittent lighting shall be used. (Ord. No. O-78-352, 12-12-78)

**Sec. 35.1- 51.1. Boarding houses, lodging houses, or rooming houses.**

Boardinghouses, lodging houses, or rooming houses permitted by conditional use permit in residential districts shall meet the following standards:

- (a) The lot must contain the minimum area requirements of the respective district for each family unit, boarder or roomer.
- (b) The facility shall not exceed a total of nine (9) boarders or six (6) roomers, except when a resident manager, as defined herein, resides on the premises, in which case the maximum number of roomers shall not exceed nine (9) including the manager.
- (c) The resident manager shall be a responsible person who is designated to act on the behalf of the owner of a rooming house and shall keep proper order of such premises.
- (d) The site must comply with the parking requirements of Section 35.1-25 of the zoning ordinance.
- (e) The operator of the facility must obtain any necessary license from the commissioner of the revenue for such a facility.
- (f) The conditional use permit shall be subject to review by the planning commission and revocation by the city council.
- (g) The conditional use permit shall be granted only to the person or firm who will operate the boardinghouse, lodging house, or rooming house, and such conditional use permit shall not be transferable.
- (h) The planning commission or the city council may prescribe any additional conditions which are necessary or desirable in its judgment. (Ord. No. O-89-201, § 2, 7-1-89; Ord. No. O-90-056, 2-13-90)

**Sec. 35.1- 52. Car n i v a l s a n d f a i r s , t e m p o r a r y .**

Temporary carnivals and fairs permitted within the boundaries of the City of Lynchburg shall meet the following standards:

- (a) A special permit shall be required which shall have a maximum duration of thirty (30) days.
- (b) Such carnival or fair must be under the sponsorship of a nonprofit organization located within Lynchburg, Amherst, Campbell or Bedford County, or a city or town situated in one of those counties.
- (c) The location of the carnival or fair shall have direct access to an arterial or collector road.
- (d) Off-street parking, in amounts to be determined by the division of inspections, shall be provided in sodded areas, parking lots ordinarily used for other purposes, or in such other ways that muddy conditions and erosion shall be minimized.
- (e) Exterior lights shall be shielded from any adjacent residential areas and amplified music or other noise shall cease between the hours of 10:00 p.m. and 9:00 a.m.
- (f) After the duration of the fair or carnival, all grounds used shall be restored to their condition before the fair or carnival. It shall be the responsibility of the sponsoring organization to perform such restoration.

The recurring use of temporary carnivals and fairs may be exempt from obtaining a conditional use permit (CUP) provided that the following conditions are met:

- (a) a written request from the sponsor describing the project, including a site plan, shall be provided to the director of community planning and development. This request shall be provided far enough in advance of the event to allow for the formal conditional use permit approval process, if needed. For any new function, the sponsor shall post a public notification sign as per Section 35.1-19 for a total of five (5) years.
- (b) a conditional use permit shall have been previously approved by the city council for this same use and shall be deemed the original conditional use permit;
- (c) the requested use shall be in the same location as the original conditional use permit and shall be recurring on an annual basis;

(d) the requested use shall, in all substantive and operational areas, be the same as the conditional use permit previously approved by the city council;

(e) the conditions of the original conditional use permit shall be retained for the requested use. The conditions of the conditional use permit can be modified by the director of community planning and development as changing needs dictate, relating to times, dates, and updated and improved safety considerations, provided that no adverse impact is reasonably expected.

(f) the technical review committee shall review each request and make a recommendation to the director. If it is determined that all of the above conditions have been met, the director may issue a written letter of approval for the subject recurring use;

(g) the proposal shall comply with any additional conditions which are deemed to be necessary and appropriate by the director.

In the event of a substantive change to the character of the surrounding neighborhood or an objection from the public, such administrative approval for the recurring use may be revoked by the director and the matter referred to the planning commission and city council for consideration of the request according to the conditional use permit application/public hearing process. (Ord. No. O-96-058, 3-12-96)

#### **Sec. 35.1- 52.1. Cemeteries and Columbariums**

In residential and commercial districts, cemeteries and columbariums permitted by conditional use permit shall meet the following standards:

(a) Cemetery plots and urns, shall be located a minimum of fifty (50) feet from the property line of any residential use or district and twenty-five (25) feet from any commercial district, with a vegetative buffer, at least four (4) feet in height at the time of planting, in a location approved by the city's inspections division and the city horticulturist.

(b) Structures shall be located a minimum of fifty (50) feet from the property line of any residential use or district and twenty-five (25) feet from any commercial district with a vegetative buffer at least four (4) feet in height at the time of planting, in a location approved by the city's inspections division and the city horticulturist.

(c) Driveways and parking areas shall be located a minimum of twenty (20) feet from the property line of any residential use or district and ten (10) feet from any commercial district.

(d) Access to cemeteries shall be from a main arterial street. (Ord. No. O-93-123, 5-11-93)

#### **Sec. 35.1-53. Churches and other places of worship.**

Churches and other places of worship permitted by conditional use permit shall meet the following standards:

(a) Parking requirements of Section 35.1-25 of this ordinance are met.

(b) Lot coverage shall not exceed twenty-five (25) per cent of buildable lot area.

(c) The building shall be located at least fifty (50) feet from any residential property line.

(d) Residential accessory uses shall provide an additional five hundred (500) square feet of usable lot area for each site resident in addition to that required for nonresidential accessory uses.

(e) In any district, a church or other place of worship may be erected to a greater height than permitted in the schedule of regulations provided that the front, side and rear yards shall be increased one (1) foot for each foot by which such building exceeds the height limitation established for the district in which such building is located.

**Sec. 35.1-54. Care centers.**

Care centers providing day care only may be permitted by conditional use permit in residential districts if the following requirements are met:

- (a) All state health department regulations for care centers or kindergartens shall be met.
- (b) For persons over eighteen (18) years of age, there shall be an appropriately enclosed outside recreation area of not less than thirty (30) square feet per person enrolled; for persons eighteen (18) years of age or less, there shall be an appropriately enclosed recreation area of not less than seventy-five (75) square feet per person using the recreation area at any one time.
- (c) The movement of traffic through the street on which the facility is located shall be capable of being controlled to the degree necessary to allow ingress and egress by small children.
- (d) The minimum area and frontage regulations shall be the following in all districts except where the center is a part of a multifamily building or group of buildings:

Number of persons enrolled	Lot size (square feet)	Frontage (feet)
6 to 10	7,000	70
11 to 20	10,000	100
Over 20	500 per person	200

- (e) Screening as specified in Section 35.1-23 of this ordinance shall be provided, for the other perimeter of the parking and of the recreation area.

- (f) Setbacks for the facility shall comply with the applicable zoning regulations of the district in which the facility is located.

- (g) Minimum off-street parking and loading space shall be provided as follows:

A minimum of two (2) parking spaces is required for each care center; plus

Two (2) parking spaces for every thirty (30) persons enrolled.

- (h) The planning commission may prescribe additional conditions which are necessary or desirable in its judgment. (Ord. No. O-89-201, § 1, 7-11-89; Ord. No. O-91-168, 7-9-91)

**Sec. 35.1-55. Convents and monasteries.**

Convents and monasteries built within the City of Lynchburg shall meet the following standards:

- (a) That the bulk and ground-coverage regulations for the district are met.
- (b) That any operations conducted in combination with the convent or monastery, such as churches open to a substantial congregation outside of the convent or monastery, schools, workshops, or retail operations, shall meet the requirements of this ordinance with respect to density, size, required off-street parking, signs, and other aspects.
- (c) That any nuisance effects of such related operations as kitchens, laundries, power plants, workshops, or other similar activities be imperceptible at any point beyond the boundaries of the convent or monastery.
- (d) That any other conditions reflecting the particular character of the establishment and deemed necessary by the planning commission, such as off-street parking for visitors to the convent or monastery, shall be met.

**Sec. 35.1-56. Cluster dwellings, cluster development with townhouse lots for sale and/or condominiums.**

(a) Cluster dwellings permitted by conditional use permit in R-1 and R-2 districts shall meet the following requirements:

(1) Net density on the site shall not exceed that permitted in the district. No land with a slope over twenty-five (25) per cent shall be included in the calculation of this density.

(2) In all instances where a multi-family district is adjacent to a single-family residential district, there shall be in the multi-family district a landscaped setback between the two (2) districts. When a multi-family district and a single-family district abut on a side yard, rear yard or required front yard, there shall be required a setback equal to at least twice the required side yard of the abutting single-family district and a vegetative buffer at least four (4) feet in height at the time of planting and at least five (5) feet in width at maturity.

(3) Regulations governing yards, courts, and other features in Section 35.1-23 shall be complied with.

(4) Applicable regulations of the subdivision ordinance of the City of Lynchburg shall apply.

(5) Where clustering of dwellings is employed, the following regulations shall apply:

Land not placed in individual lots shall be dedicated to the City of Lynchburg or placed in the ownership and control of a homeowners' association capable of providing adequate maintenance.

(b) A cluster development with townhouse lots for sale shall meet the following minimum standards:

(1) Lot area: Each townhouse shall be located on a lot of not less than one thousand two hundred (1,200) square feet in area.

(2) Unit width: A minimum width of sixteen (16) feet per lot shall be maintained.

(3) Front yard: There shall be a minimum ten (10) foot front yard (area between front door and front of lot, or parking area, or other common area).

(4) Side yard: There shall be a side yard of not less than sixteen (16) feet in width at each end of a group of units (not to be shared between units).

(5) Rear yard: There shall be a rear yard with a depth of not less than twenty-five (25) feet for each unit (not to be shared between units).

(6) Lay-out: Facades must change front yards so that not more than three (3) abutting units will have the same front yard setback. No more than nine (9) townhouses shall be attached in a group.

(7) Height regulations: Townhouse units shall comply with the standards of height regulations specified in the permitted zoning district of development.

(8) Common areas: Walkways must be provided from each unit to public or common areas within the project such as refuse collection, recreation, and parking.

(9) Perimeter yards: Each townhouse development shall have a perimeter yard on the rear and side property lines of the total site equal to at least twenty-five (25) feet, which may include the required side and rear yards for each townhouse, except where the development is within or abuts a single-family district, in which case the perimeter yard shall be at least fifty (50) feet. The required front yard for the zoning



district in which the development is located shall apply for the townhouse development along the front property line of the total site which may include the required front yard for each townhouse.

(10) Required yard measurement: All required yards for townhouse development shall be measured outwardly from the buildings toward the property lines.

(11) Parking areas: All parking areas, driveways and/or common sidewalks and/or other common areas must be in addition to the required one thousand two hundred (1,200) square feet of lot area, and, further, no parking areas, driveways, common sidewalks and/or other common areas will be permitted in any required yards.

(c) Management and ownership of common open space, property and facilities in townhouse cluster developments.

(1) All common open space, properties, and facilities shall be preserved for their intended purpose as expressed in the approved plan. The developer shall provide for the establishment of a homeowners' association or corporation of all individuals or corporations owning property within the cluster development to ensure the maintenance of all common open space, properties and facilities.

(2) All privately owned common open space shall continue to conform to its intended use and remain as expressed in the site plan through the inclusion in all deeds of appropriate restrictions to ensure that the common open space is permanently preserved according to the site plan. The deed restrictions shall run with the land and be for the benefit of present as well as future property owners and shall contain a prohibition against partition.

(3) All common open space as well as public and recreational facilities shall be specifically included in the development schedule and be constructed and fully improved by the developer.

(4) The corporation or homeowners' association established to own and maintain common open space properties and facilities shall conform to the following requirements, and the developer shall obtain the approval of the city attorney as to acceptability of incorporation documents:

a. The developer must establish the homeowners' association or corporation prior to the final approval, recording and sale of any lot.

b. Membership in the association or corporation shall be mandatory for all residents within the cluster development and the homeowners' association or corporation shall not discriminate by race, creed or sex in its members or shareholders.

c. The association or corporation documents shall set forth the purposes of the permanent organization under which common ownership is to be established; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property including necessary bonds when required by the city; and the method of assessing the individual property for its share of the cost of administering and maintaining such common property.

d. The incorporation document shall set forth the extent of common interest held by the owner of each individual parcel in the tract held in common with others.

e. All property in a cluster development shall remain under a single entity ownership of a developer or a group of developers, and shall not be leased or sold unless provision is made which ensures participation by the properties leased or sold in the retention and maintenance of common open space and community facilities. A certificate of compliance, indicating that such arrangements have been made, shall be issued by the agent of the city prior to the sale or lease of the property by the developer.

(d) Cluster development of condominiums for sale. All condominiums for sale shall meet the requirements below:

(1) Comply with the standards specified in the Code of Virginia, 1950, as amended.

(2) Area regulations of the permitted zoning district.

(3) Yard regulations of the permitted zoning district. (Ord. No. O-78-352, 12-12-78; Ord. No. O-79-330, § 1, 11-13-79; Ord. No. O-80-082, § 1, 4-8-80; Ord. No. O-85-140, § 1, 6-11-85)

**Sec. 35.1- 56.1 Group homes.**

The intent of the provisions for group homes is to promote housing opportunities for those individuals that have had difficulty in obtaining adequate housing.

Group homes may be permitted by conditional use permit in residential districts if the following requirements are met:

(a) Any applicable state health department regulations or other regulatory licensing for group homes shall be met. [Note the exception of Section 35.1-11.8(d) for no more than eight (8) mentally ill persons.]

(b) For residents over eighteen (18) years of age, there shall be an appropriately enclosed outside recreation area of not less than thirty (30) square feet per resident enrolled; for residents eighteen (18) years of age or less, there shall be an appropriately enclosed outside recreation area of not less than seventy-five (75) square feet per person using the facility at any one time.

(c) The movement of traffic through the street on which the facility is located shall be capable of being controlled to the degree necessary to allow ingress and egress.

(d) The minimum area and frontage regulations shall be the following in all districts except where the center is a part of a multifamily building or group of buildings:

Number of persons enrolled	Lot size (square feet)	Frontage (feet)
4 to 10	7,000	70
11 to 20	10,000	100
Over 20	500 per person	200

A facility for less than four (4) individuals shall comply with the definition of "family" of the zoning ordinance.

(e) Screening as specified in Section 35.1-23 of this ordinance shall be provided, for the other perimeter of the parking and of the recreation area.

(f) Setbacks for the facility shall comply with the applicable zoning regulations of the district in which the facility is located.

(g) Minimum off-street parking and loading space shall be provided as follows:

A minimum of two (2) parking spaces is required for each group home; plus

One (1) parking space for every eight (8) residents, or one (1) for every resident with a car, which is greater; and

One (1) parking space for every three (3) staff members.

(h) The planning commission may prescribe additional conditions which are necessary or desirable in its judgment. (Ord. No. O-89-201, § 2, 7-11-89; Ord. No. O-91-168, 7-9-91)

**Sec. 35.1- 57. Heli ports.**

Heliports may be permitted by conditional use permit within I-1 and I-2 districts if they meet the following requirements:



- (a) The heliport is an appropriate use of the land and will not unduly interfere with surrounding land uses.
- (b) The proposed site will meet the standards and requirements of federal and state agencies concerned.
- (c) Every land area used by heliports for take-off or landing shall be of a dustproof surface.
- (d) No area used by any aircraft under its own power shall be located within a distance of two hundred (200) feet from any property line; one thousand (1,000) feet from any public or private institution where airport operations could interfere with the work of the institution, including schools, hospitals, sanatoriums and churches; or one thousand (1,000) feet from any departure ends of the runway. Buildings, hangars, or other structures shall be at least two hundred (200) feet from any property line. No parking of vehicles shall be allowed within one hundred (100) feet of any property line.
- (e) The division of inspections shall refer the plans for the proposed facility to the federal aviation administration for the report of that agency as to the possible interference of flight operation relating to the proposed facility with those of other existing or programmed airports or heliports and shall certify that no such interference will exist.

**Sec. 35.1- 58. Hospitals and sanatoriums.**

Hospitals and sanatoriums may be permitted by conditional use permit in residential districts if the following conditions are met:

- (a) The site is easily accessible to ambulatory and nonambulatory patients, visitors, staff members, personnel, ambulances, fire fighting equipment, and for the delivery of supplies, avoiding congested areas while at the same time not causing congestion.
- (b) The site is free from such undue noise as that emanating from railroads, airports, freight yards, trucking routes, main traffic arteries, schools, and children's playgrounds; that it is removed from industrial or topographical conditions which would encourage breeding of flies, mosquitoes, or other insects; that the site is not exposed to smoke, foul odors, or dust or located so that prevailing winds from nearby industrial development will bring smoke or objectionable odors to the hospital or sanatorium; that the proposed building will not be exposed to adjacent fire hazards; and that the site is not only free of these nuisances at the time of construction but that no probable future development in the immediate area will create any; and that the proposed hospital or sanatorium will not adversely affect surrounding land uses due to nuisances. Examples of potential nuisance factors emanating from hospitals and sanatoriums include laundry operations, power plants, cafeterias, incinerators, kitchens, ambulance and emergency patient entrances, unloading areas, traffic and public transportation relative to out-patient programs or blood banks, animal laboratories and noises from mental, alcoholic, or drug-addicted patients.
- (c) Certification must be granted by the division of medical and hospital services of the State of Virginia.
- (d) Accessory uses—The planning commission may permit accessory uses, provided that the following conditions are met:
  - (1) That they will improve the ability of the hospital to function and provide community service.
  - (2) That all potential adverse effects emanating from such uses are prevented.
  - (3) That all requirements of this ordinance applicable to such uses are met, including those governing off-street parking and loading, lot area, setbacks, site plan review, and conditional use procedures.
  - (4) In meeting minimum lot area and setback requirements for different uses, there is no pooling of open space between different uses.

Examples of accessory uses which may be allowed on a zoning lot whose principal uses is a hospital or sanatorium are as follows:

- a. Staff resi dences (single- family, multi- family, dor mi tory).
- b. Schools (medi cal, nurs ing, pa tient re ha bili ta tion).
- c. Rec rea tion fa cili ties (gym na sium, swim ming pool, ten nis courts).
- d. Research laboratories.

(e) Site standards—The hospital, sanatorium, or other similar institutions shall meet all height, bulk, and setback regulations for the district in which it is located, as well as the regulations in Article V of this ordinance, except that in no case shall any building which is a part of such an institution or an accessory use to such an institution be located within fifty (50) feet of any lot line, or more if deemed necessary by the city council.

**Sec. 35.1- 59. Ho tels and mo tels.**

Hotels and motels constructed within the City of Lynchburg shall meet the following standards:

- (a) Hotels and motels shall be located and designed in such a way that occupants shall be protected to the maximum degree from noise, bright lights, and other nuisances produced by nearby commercial activities.
- (b) Hotels and motels permitted by right in B-6 districts or by conditional use permit in B-5, I-1, and I-2 districts shall have a minimum lot size of one thousand (1,000) square feet per guest room and a minimum street frontage of two hundred (200) feet.
- (c) Hotels and motels permitted by conditional use permit in B-5, I-1, and I-2 districts have a minimum setback of fifty (50) feet from all property lines. In B-5 and I-2 districts, screening, as defined in Section 35.1-23 of this ordinance, shall be provided in side and rear setbacks.
- (d) Customary accessory uses, such as newsstands, gift shops, and barber and beauty shops, may be included if contained within the main hotel or motel building.

**Sec. 35.1- 60. Ken nels and other small ani mal rais ing and board ing.**

Facilities for the raising and boarding of pets and small animals within the City of Lynchburg shall meet the following standards:

- (a) The minimum parcel size shall be five (5) acres in R-C districts and one (1) acre in other districts where these facilities are permitted.
- (b) No outside pen or run may be located within two hundred (200) feet of any lot line in a R-C District or within fifty (50) feet of a lot line in other districts.
- (c) Screening at least as extensive as specified in Section 35.1-23 shall be provided on side and rear lot lines.
- (d) Disposal of wastes must ensure that streams and underground water will not be polluted by them and that odors and other emissions are not perceptible at lot lines.
- (e) Outside lighting shall be shielded so that direct light does not shine beyond lot lines.

**Sec. 35.1-61. Man u fac turing, cus tom.**

Custom manufacturing permitted by conditional use permit in other than manufacturing districts shall meet the following standards:

- (a) Manufacturing operations which do not cause vibration noise, emissions, or other nuisances which are detrimental to the health, safety, or the general welfare of the community.
- (b) Adequate access can be provided for delivery of materials and removal of finished goods through loading facilities comparable to those used by commercial facilities in the area.

(c) Proposed custom manufacturing operations which are similar in character to those permitted by right in the district.

(d) Special preference will be given to establishments involving manufacturing processes producing goods to be sold on the premises through retail facilities permitted in the district.

**Sec. 35.1- 62. Mobile home parks.**

(a) Individual mobile homes not meeting regular building code regulations, but meeting requirements contained in the American National Standards Institute for Mobile Homes—Body and Frame Design and Construction, Installation of Plumbing, Heating, and Electrical Systems, must be located in mobile home parks as regulated herein containing not less than five (5) mobile home lots.

(b) Mobile home parks may be permitted in the R-C, R-1, R-2, R-3, and R-4 districts by conditional use permit if the following standards are met:

(1) The site shall contain no less than ten (10) contiguous acres. (2) The site shall be served by public sewerage and water supply adequate for the proposed development, and provision shall be made on each site for the proper connection of each mobile home to city sewer and water supply lines. All utility lines shall be placed underground.

(3) The site shall have access to at least one (1) collector street meeting the city's standards for cross-section and capacity. (4) The site shall be reasonably accessible to schools, shopping, employment, recreation areas, and police and fire protection.

(5) The site shall not include conditions of soil, ground water level, drainage or topography which could cause hazards to property or the health or safety of the occupants.

(6) Existing trees and shrubbery on the site shall be preserved to the greatest possible extent.

(7) Street widths and layouts shall conform to the subdivision ordinance of the City of Lynchburg.

(8) All mobile homes shall be located at least twenty-five (25) feet from any lot line and thirty (30) feet from any street right-of-way. The side and rear setbacks shall be planted with screening as specified in Section 35.1-23 of this ordinance where it is bounded by residential, commercial, or industrial development.

(9) Parking shall be provided in an amount of two (2) spaces per mobile home unit. At least one (1) space shall be provided within each individual lot.

(10) Maximum density shall be that prescribed for the district in which the park is located, except that no mobile home park shall exceed a density of eight (8) units per acre and mobile home parks in R-C districts may have a density of two and one-half (2 1/2) units per acre. No individual lot shall be less than four thousand (4,000) square feet for single-wide units and six thousand (6,000) square feet for double-wide units. Nor shall any lot have frontage of less than forty (40) feet on a paved access road at least twenty (20) feet in width leading to a public street. The minimum spacing between mobile homes shall be twenty (20) feet.

(11) Lot coverage may not exceed thirty (30) per cent.

(12) In mobile home parks containing more than twenty (20) units, usable recreation area totaling not less than ten (10) per cent of the total area of the park shall be provided.

(13) Each mobile home lot shall be provided with an outdoor living and service area. Such area shall be improved as necessary to assure reasonable privacy and comfort. The minimum area shall not be less than three hundred (300) square feet with at least a dimension of fifteen (15) feet and shall include a concrete or other hard surfaced terrace as a patio not less than two hundred (200) feet in area adjacent to the area designated for the mobile home.

(14) No existing mobile home park shall be extended except in accordance with these regulations.

(c) Service buildings.

(1) Such service buildings housing toilet and bathing facilities for men and women, with laundry facilities as are required by the plumbing code of the City of Lynchburg, Virginia, in Appendix (B) . Section B-5, pertaining to service buildings for mobile home and travel trailer parks shall be installed and maintained in all conditional use permit trailer-mobile home park special districts; and such parks shall comply with all sanitary and other requirements prescribed by law or regulation.

(2) No more than one (1) utility building of one hundred (100) square feet or less shall be permitted for each trailer-mobile home lot.

(d) Use permit required. In addition to the above provisions, a use permit shall be secured from city council for any such property to be used as a trailer-mobile home park. Should Council find that such use: (1) will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use; (2) will not be detrimental to the public welfare or will not be injurious to property or improvements in the neighborhood; and (3) will be in accord with the land use plan of the City of Lynchburg, it shall issue such use permit, provided all other provisions of law and ordinance shall have been complied with. In granting any such use permit, the council shall designate such conditions in connection therewith as will, in its opinion, assure that the use will conform to the foregoing requirements and that it will continue to do so.

(e) Approval of site development plan required. Any application for development within this special district shall require review of the site development plan by the planning commission and approval by the city council.

Any petition for a trailer-mobile home park conditional use permit zoning district shall be submitted together with a preliminary site plan for the use of the same tract, so that both shall be considered simultaneously and, furthermore, so that approval of an application for conditional use permit classification shall be conditional upon approval of a site development plan.

(f) Signs. Signs shall comply with the provisions of district regulations as required for R-C, R-1, R-2, R-3, and R-4 districts.

#### **Sec. 35.1-63. Museums and art galleries.**

Museums, art galleries and similar institutions permitted only by conditional use permit in residential districts shall meet the following requirements:

(a) The lot area shall be at least one (1) acre. Floor area ratio shall not exceed one-tenth (1/10th).

(b) Other relevant regulations of this ordinance, including those for parking, signs, and lighting shall be met.

(c) Streets serving the site shall be adequate to carry the traffic expected to be generated without disruption of residential neighborhoods.

(d) Commercial activities included in museums and art galleries shall be limited to the sale of postcards, prints, books, reproductions of sculpture or handcrafts, films, or similar merchandise related to the exhibitions in the building.

#### **Sec. 35.1- 64. Nurs ing homes.**

Nursing homes may be permitted by conditional use permit in residential districts if the following conditions are met:

(a) The nursing home shall meet all requirements of federal, state and other public agencies for physical facilities and administration organization.

(b) The proposed site shall have direct access to at least one (1) collector street or road of higher function but shall not be located on a heavily traveled arterial or freeway unless substantial screening is provided along such heavily traveled road. In general, road access must be adequate for the traffic expected to be generated by the proposed development.

(c) The minimum area and frontage regulations shall be the following in all districts except where the center is a part of a multifamily building or group of buildings:

Number of persons enrolled	Lot size (square feet)	Frontage (feet)
(4) to 10	7,000	70
11 to 20	10,000	100
Over 20	500 per person	200

A facility for less than four (4) individuals shall comply with the definition of "family" of the Zoning Ordinance.

(d) Screening as specified in Section 35.1-23 of this ordinance shall be provided, for the other perimeter of the parking area.

(e) In all cases, the nursing home shall be no less than fifty (50) feet from any lot line.

(f) Minimum off-street parking and loading space shall be provided as follows:

A minimum of one (1) parking space is required for each three (3) patient beds;

One (1) parking space for each resident doctor plus;

One (1) parking space for each three (3) staff members.

(g) The design of the facility must be such that no sounds, smells or any other noxious emissions from such activities as kitchens or loading areas will become a nuisance to the community.

(h) Certification must be granted by the division of medical and hospital services of the State of Virginia.

(i) The southwest Virginia health systems agency has certified the need for a nursing home and the appropriateness of the location.

(j) The planning commission may prescribe additional conditions which are necessary or desirable in its judgement. (Ord. No. O-89-201, § 1, 7-11-89; Ord. No. O-91-168, 7-9-91)

**Sec. 35.1- 65. Offices and research and development installation in R-C Districts.**

Offices and research and development installations may be permitted in R-C districts if they meet the following requirements:

(a) The site of the proposed development is served by public sewers and water supply, and waste disposal will be provided to an extent acceptable to the director of community services and the city health officer.

(b) The minimum lot size for such developments shall be ten (10) acres and the maximum employment permitted shall be five (5) employees per acre of land.

(c) No building or structure used for office or research and development purposes shall be located within one hundred (100) feet of any lot line.

- (d) All grounds will be landscaped and maintained on a continuous basis.
- (e) Off-street parking shall be provided to standards required in Section 35.1-25. This parking shall be screened so that it cannot be seen from any lot line.
- (f) Signs may be permitted as specified in Section 35.1-26.

**Sec. 35.1-66. Clubs and fraternal organizations.**

Facilities for clubs and fraternal organizations permitted by conditional use permit in residential districts shall conform to the following regulations:

- (a) Every building shall be located at a distance of not less than one hundred (100) feet from any lot line. This requirement may be altered to not less than fifty (50) feet at commercial or industrial zoned lot lines or along a front lot line other than one located on either primary or secondary streets.
- (b) All buildings on the site shall not cover, in the aggregate, a ground floor area of more than twenty (20) per cent of the area of the site.
- (c) No automobile parking space shall be located in any required setback area or within a distance of twenty-five (25) feet from any property line. This requirement may be altered at commercial or industrial zoning lot lines or secondary streets.
- (d) Off-street parking space and loading berth requirements:
  - One (1) parking space per employee.
  - One (1) parking space per site resident.
  - One (1) parking space per fifty (50) square feet of floor area.
  - One (1) loading berth for service vehicles.
  - Three (3) loading berths per main entrance.
- (e) Signs shall be limited to one (1) identification sign not more than twelve (12) square feet in area and those required to direct to off-street parking. Any illumination shall be white, non-flashing, limited to either enclosed light design or indirect lighting from a shielded source, and may not be displayed within a distance of thirty (30) feet from any property line. (Ord. No. O-89-201, 7-11-89)

**Sec. 35.1-67. Police and fire stations.**

Police and fire stations shall, as often as possible, be located in commercial and industrial districts. When located by conditional use permit in residential districts, the following findings must be made:

- (a) That such use will serve the area within which it is proposed to be located; that there are serious difficulties in locating it in a district wherein it is permitted by right and from which it could serve the area, which make it necessary to locate such use within a residential district.
- (b) That the site will provide good access to an arterial street without passing through a low or medium density residential area.
- (c) That normal paths of access to the facility will not traverse routes heavily traveled to schools or playgrounds within five hundred (500) feet of the facility.

**Sec. 35.1-67.1. Public uses.**

- (a) It is the intention of the city to provide public facilities and services adequate to support the continued growth and prosperity of the city, and to that end it is necessary to allow public uses in all districts.
- (b) Any provision in this ordinance to the contrary notwithstanding, a public use, including the expansion of an existing public use, shall be allowed as a use by right in all districts, except for the following public uses which shall only be permitted by conditional use permit:

- (1) sanitary or solid waste facility, public - establishment of a new facility; and
- (2) jail - establishment of a new facility.

(c) For purposes of this Section 35.1-67.1, the expansion of an existing public use shall include the extending or enlarging of a public use on contiguous land or land situated across a street or road from the existing public use. (Ord. No. O-92-142, 5-12-92)

**Sec. 35.1- 68. Radio and television towers and transmitting stations.**

Radio and television towers and transmitting stations permitted by conditional use permit shall meet the following requirements:

- (a) That the tower will be so located on the zoning lot that its minimum distance from any lot line will equal the maximum height of the tower above ground level.
- (b) That the proposed location, design, and method of operation of such tower or station will not have a detrimental effect on the privacy, quiet, light, or air of the neighborhood.
- (c) That the proposed tower will cause no interference with existing or potential air traffic.

**Sec. 35.1- 69. Recreation facilities, public or community owned.**

Public or community recreation facilities may be permitted by conditional use permit in residential districts if they meet the following conditions:

- (a) Applicable requirements of this ordinance, including those relating to signs, lights, and off-street parking, are complied with.
- (b) Screening, as specified in Section 35.1-23 of this ordinance, is provided between areas to be used for games, athletics, or other active recreation and adjacent residential areas.
- (c) Swimming pools, tennis courts, and other facilities presenting potential dangers to the life and limb of children shall be provided with fencing capable of restricting access to such facilities at times when they are not supervised.
- (d) Toilet, shower and dressing facilities shall be provided in locations and capacities appropriate to the proposed recreational use and in accordance with applicable standards of the department of health.
- (e) The use of sound amplifying devices shall be restricted to that necessary for safety purposes.

**Sec. 35.1- 70. Riding academies and stables.**

Riding academies and stables may be permitted in conservation districts by conditional use permit if they meet the following requirements:

- (a) Adequate trails or areas for horseback riding shall be available on the same zoning lot or within six hundred (600) feet of such zoning lot.
- (b) The location and operation of such use will not be such as to result in any serious traffic hazards or conflicts on nearby streets.
- (c) No stables or riding areas shall be located within one hundred (100) feet of any side or rear lot line.
- (d) If not more than two (2) horses are kept, the stable shall be located on a tract of not less than two (2) acres. If three (3) or more horses are kept, the stable shall be located on a tract of not less than five (5) acres.

**Sec. 35.1-70.1. Sanitary or solid waste facilities.**

Private and public sanitary or solid waste management facilities may be permitted by conditional use permit if the following requirements are met;

provided, however, that the expansion of an existing public facility is exempt from these requirements:

(a) All sanitary or solid waste management facilities shall accept only waste materials which are generated within the City of Lynchburg; provided, however, that any existing private facility that is accepting waste generated by one of its industrial locations in an adjacent county at the time of the adoption of this ordinance may continue to do so.

(b) Private facilities shall be established only by and for the use of the industry generating the industrial waste in accordance with Sections 35.1-40(d)(7) and 35.1-41(e)(4).

(c) Existing private facilities as defined in Section 35.1-11.12(c) may expand by right in any zoning district, provided that the expansion meets all requirements of this section.

(d) All state and federal regulations must be complied with, all necessary permits be obtained, and copies of said permits be given to the superintendent of inspections, the city planner, and the city engineer.

(e) The facility shall be located with direct access onto an arterial or collector street, except that existing private facilities and expansions shall be exempt from this requirement.

(f) Fencing or natural barriers shall completely enclose the disposal area to prevent unauthorized disposal or salvage activities and to prevent waste materials from blowing onto adjacent properties.

(g) The operation shall have a minimum setback of one hundred (100) feet from all adjacent property lines, except where the property abuts a residential zoning district, in which case a minimum setback of two hundred (200) feet shall be maintained.

(h) Within the required setback of one hundred (100) or two hundred (200) feet, all existing vegetation shall remain undisturbed as a buffer, except for the cleared fire break which is fifty (50) feet in width. Where existing vegetation is sparse or nonexistent, a staggered evergreen vegetative buffer at least ten (10) feet in width shall be established and maintained along the property line.

(i) A plan shall be submitted to the city for review and approval indicating (1) how the area will be returned to a stable, natural state following the closure of the disposal operation, and (2) the intended future use of the site.

(j) A recordation shall be made with the deeds of all affected parcels informing all future owners that the property was used for a sanitary or solid waste management facility, the types of materials disposed there, and the dates of its operation. Certification of such recordation shall be given to the superintendent of inspections, the city planner, and the city engineer. (Ord. No. O-92-142, 5-12-92)

**Sec. 35.1-71. Schools, colleges, and vocational schools.**

Schools, colleges, and vocational schools permitted by conditional use permit shall conform to the following requirements:

(a) Minimum area, frontage and setback requirements.

(1) Kindergartens.



Number of children enrolled	Lot size (square feet)	Frontage (feet)
Up to	55,000	50
6 to 10	7,000	70
11 to 20	10,000	100
Over 20	500 per child	200

(2) Elementary schools. Minimum usable lot area: five (5) acres plus one (1) acre for each one hundred (100) pupils; frontage: two hundred (200) feet; setback: twenty-five (25) feet from all lot lines.

(3) Junior high schools. Minimum usable lot area: ten (10) acres plus one (1) acre for each one hundred (100) pupils; frontage: three hundred (300) feet; setback: fifty (50) feet from all lot lines.

(4) Senior high schools. Minimum usable lot area: ten (10) acres plus one (1) acre for each one hundred (100) pupils; frontage: three hundred (300) feet; setback: fifty (50) feet from all lot lines.

(5) Colleges, junior colleges and universities. Grades above the level of twelve (12). Minimum usable lot area: fifty (50) acres plus one (1) acre for each one hundred (100) pupils; frontage: five hundred (500) feet; setbacks: one hundred (100) feet from all lot lines.

(6) Schools with residence accommodations. In addition to meeting the area requirements enumerated above, schools with residence accommodations shall provide an additional five hundred (500) square feet of usable lot area for each site resident. Residents shall include students, whether housed in dormitories, fraternity houses or other living quarters; staff members and their families; and caretakers and their families who sleep for any part of the school year on the zoning lot.

(7) Sources of potential nuisance factors, including cafeterias; power plants; kitchens; gymnasiums; unloading areas for supplies, food and garbage; and outdoor play areas shall be located a minimum of two hundred (200) feet from any residential zoning lot and shall be provided with buffer areas.

(8) Access drives shall be located at least forty (40) feet from any adjacent residential zoning lot.

(b) In any district, a school may be erected to a greater height than permitted in the schedule of regulations, provided that front, side and rear yards shall be increased one (1) foot for each foot by which such building exceeds the height limitation established for the district in which such building is located.

(c) The installation of a temporary modular classroom unit(s) at an existing school may be exempt from obtaining a Conditional Use Permit (CUP) provided that the following conditions are met:

(1) the need for the classroom unit(s) shall be of an emergency nature, which need could not have been foreseen enough in advance to follow the usual CUP application/public hearing process;

(2) a written request describing the proposal and a site plan shall be submitted to the Director of Community Planning and Development;

(3) the classroom unit(s) shall be installed on a temporary basis to be in place no longer than the current school year. If, at the end of the current school year, it is determined that there is a continued need for the classroom unit(s) in that location, then a CUP petition shall be submitted; and the established CUP application/public hearing process shall be followed;

(4) the unit(s) shall be located on the school property in such a way as to minimize impact on the neighborhood;

(5) adequate landscaping shall be provided to buffer the unit(s) from adjacent residential areas;

(6) the exterior lighting for the modular classroom units(s) shall be controlled so that direct illumination shall not be visible beyond the property line; and

The Technical Review Committee (TRC) will review each request and make a recommendation to the Director of Community Planning and Development. If it is determined that all of the above conditions have been met, the Director may issue a written approval for the installation of the classroom unit(s).

In the event of a substantive, later objection from the public, such administrative approval may be revoked by the Director with referral of the matter to the Planning Commission and City Council for a decision according to the established CUP application/public hearing process.

(7) the proposal shall comply with any additional conditions which are deemed to be necessary or appropriate by the Director of Community Planning and Development. (Ord. No. O-78-352, 12-12-78; Ord. No. O-91-092, 5-14-91; Ord. No. O-93-100, 4-13-93)

#### **Sec. 35.1- 72. Shoot ing Ranges.**

Shooting ranges may be permitted in conservation districts by conditional use permit if they meet the following conditions:

(a) Outdoor rifle, pistol, and skeet shooting ranges—Conditional use permits for outdoor shooting ranges may be granted for a term not to exceed two (2) years, subject to renewal, only after having been granted preliminary approval by the Chief of Police of the City of Lynchburg.

(b) Indoor rifle, pistol, and skeet shooting ranges—Indoor shooting ranges may be permitted by conditional use permit only after having been granted preliminary approval by the Chief of Police of the City of Lynchburg.

#### **Sec. 35.1- 73. Thea ters, drive- ins.**

Drive-in theaters developed within the City of Lynchburg shall conform to the following standards:

(a) The principal vehicular access for such use shall not be located on a freeway or local street, but shall be located on an arterial street or a collector street within one-quarter (1/4) mile of a freeway or arterial highway.

(b) Such use shall not be so located that it will draw vehicular traffic to and through local street in nearby residential areas.

(c) Such use shall not be located within five hundred (500) feet of a residential zoning lot.

(d) Off-street reservoir space at the vehicular entrance for automobiles of patrons awaiting admission to the theater shall be equal to thirty (30) per cent of the capacity of the viewing area and sufficient vehicular entrances and exits shall be provided to prevent congestion.

(e) Vehicular entrances and exits for such use shall be provided separately and shall be located not less than one hundred (100) feet apart.

(f) Vehicular circulation shall be so designed as to permit only one-way traffic within the boundaries of the tract on which the theater is to be located.

(g) The theater screen shall not be permitted to face a major highway and shall not be visible from any major secondary street within two thousand five hundred (2,500) feet. The viewing area shall be screened in such a manner that it cannot be observed from outside the property.

(h) A wall or fence of adequate height shall be provided to screen the patrons and cars in attendance at said theater from the view of the surrounding property. The perimeter of said fence shall be landscaped by a planting strip at least four (4) feet wide, densely planted with live shrubs or trees which are at least three

(3) feet high at the time of planting and which are a type that is normally considered to be a good screening material.

(i) Individual loud speakers for each car shall be provided and no central loud speaker shall be permitted.

(j) Exits and aisles and passageways leading to them shall be kept adequately lighted at all times when open to the public. Artificial lights shall be provided whenever natural light is inadequate.

(k) All the requirements for outdoor theaters in other ordinances shall be met.

(1) The following accessory uses may be permitted as incidental to and limited to patrons of the principal use:

(1) Amusement park, kid dy land.

(2) Souve nir stands and booths.

(3) Refreshment stands and booths.

**Sec. 35.1-73.1. Tourist homes or bed and breakfast.**

Tourist homes or bed and breakfast permitted by conditional use permit in private homes in residential districts shall meet the following standards:

(a) For R-C, R-1, and R-2 districts, not more than three (3) rooms with not more than two (2) persons per room may be offered for transient guests for compensation under the management of the occupants of the dwelling.

(b) For R-3, R-4, and R-5 districts, not more than five (5) rooms with not more than four (4) persons per room may be offered for transient guests for compensation under the management of the occupants of the dwelling.

(c) The primary use of the home shall remain as a residence.

(d) The parking requirements of Section 35.1-25 of this ordinance. (e) The operator of the facility must obtain a license from the commissioner of the revenue for such a facility.

(f) Any additional conditions which the planning commission or the city council prescribe as necessary or desirable in its judgment. (Ord. No. O-89-201, 7-11-89)

**Sec. 35.1- 74. Trailer parks, camp grounds.**

Areas for the temporary location of travel trailers, self-propelled campers, tents, and other temporary and movable overnight accommodations may be permitted by conditional use permit in R-C and B-5 districts if the following conditions are met:

(a) The proposed site shall contain at least ten (10) acres of area, with at least five thousand five hundred (5,500) square feet of land for each trailer site and shall provide at least four thousand (4,000) square feet of area in each trailer space, which shall have at least forty (40) feet of frontage on a paved access road at least twenty (20) feet in width leading to a public street. Every trailer must be parked at least twenty (20) feet from any other trailer.

(b) The site shall be served by water supply and waste disposal systems acceptable to the state department of health.

(c) The site shall have direct access to an arterial road.

(d) Screening in accordance with Section 35.1-23 of this ordinance shall be provided between areas used for the parking of trailers and any adjacent commercial or permanent residential uses.

(e) Trailer courts permitted under this section may not be used for the location of a trailer for more than thirty (30) days.

(f) The following services shall be provided.

(1) An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and trailer lots within the court. Each lot shall be provided with a cold water tap. Waste from this supply shall be emptied into a drain connected to an approved disposal system.

(2) Toilet and other sanitary facilities shall be provided for males and females and shall either be in separate buildings or shall be separated, if in the same building, by soundproof walls; shall be marked with appropriate signs; and shall have doors at least eight (8) feet apart. Each toilet and each shower stall shall be in a private compartment or stall.

(3) Toilet facilities for males shall consist of not less than one (1) flush toilet, one (1) urinal, one (1) shower with a dressing compartment with at least nine (9) square feet, and one (1) lavatory for every ten (10) trailers or fraction thereof.

(4) Toilet facilities for females shall consist of not less than one (1) flush toilet, one (1) shower with a dressing compartment with at least nine (9) square feet and one (1) lavatory for every ten (10) trailers or fraction thereof.

(5) Suitable laundry facilities shall be provided.

(6) An adequate supply of hot and cold running water shall be provided for each shower, lavatory, and laundry.

(7) Service buildings housing the toilets and sanitary facilities shall be permanent structures complying with all applicable ordinance and statutes regulating buildings, electrical installation, and plumbing and sanitation systems and shall be located not closer than twenty (20) feet nor further than two hundred (200) feet from any court unit.

(8) All service buildings and the grounds of the court shall be maintained by the licensee or his agent in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.

(9) Waste from showers, bathtubs, flush toilets, urinals, and lavatories in service and other buildings within the court shall be discharged into a public sewer system in compliance with applicable ordinances or into a private sewer and disposal plant or septic tank system of such construction and in a manner approved by the City Department of Health.

(g) Development in trailer parks must meet all other applicable regulations in this ordinance.

#### **Sec. 35.1- 75. Public utilities.**

Public utilities permitted by conditional use permit in residential or business districts shall meet the following conditions:

(a) General.

(1) Public utility uses allowed by conditional use permit in residential or commercial districts shall not include any of the following: Power generating plants; incinerators; non-local area telephone and telegraph dial or repeater stations; public transit or railroad car barns, garages, yards, or shops; construction of building materials yards, service truck dispatching, or storage; or uses not enumerated below.

(2) The architectural and landscaping treatment of such use will blend harmoniously with other development in the area.

(3) All such uses shall conform to the performance standards applicable to I-1 districts.

(4) Appropriate conditions and safeguards may be prescribed to minimize adverse effects on the character of the surrounding area, including requirements for soundproofing, for the construction of fences, barriers, or other safety devices, for surfacing of all access roads and driveways, for shielding of floodlights, or other artificial illumination or for landscaping or screening.

(b) Public service establishment. In all districts, the planning commission may permit electric or gas utility substations, limited in each case to a site of not more than ten thousand (10,000) square feet; water or sewage pumping stations; or telephone exchanges or other communications equipment structures; provided, that the following findings are made:

(1) That such use will serve the area within which it is proposed to be located; that there are serious difficulties in locating it in a district wherein it is permitted as of right and from which it could serve the area and which make it necessary to locate such use within the proposed district.

(2) In the case of such electric or gas utility substations or water or sewage pumping stations, that the site for such use has a minimum frontage of fifty (50) feet and a minimum lot area of five thousand seven hundred (5,700) square feet.

(c) Other public utility facilities. In all districts, the planning commission may permit public utility stations for oil or gas metering or regulating or terminal facilities located at water crossings for access to electric, gas, or steam lines; provided, that the planning commission finds that the proposed location, design and method of operation will not have a detrimental effect on the privacy and quiet of the neighborhood and the safety of its inhabitants.

(d) Public transit, railroad or electric utility substations. In all residential or commercial districts, the planning commission may permit electric utility substations (including transformers, switches, or auxiliary apparatus) or public transit or railroad electric substations, limited in each case to a site of not more than forty thousand (40,000) square feet, and in the case of electric utility substations to a site of not less than ten thousand (10,000) square feet, provided that the following findings are made:

(1) That such use will serve either the community within which it is proposed to be located and that there are serious difficulties in locating such use in a nearby district where it is permitted as of right.

(2) In the case of public transit or railroad electric substations, that the site for such use has a minimum frontage of fifty (50) feet and a minimum lot area of five thousand seven hundred (5,700) square feet.

(e) Non-local area substations. The planning commission may permit public transit, railroad, or utility electric substations which will serve a larger area than the residential community within which it is proposed to be located or the residential community immediately adjacent; provided, that the other findings enumerated above are made and provided that the site is not less than forty thousand (40,000) square feet nor more than ten (10) acres.

(f) Overhead electric power and energy transmission and distribution lines. In all residential and commercial districts, the planning commission may permit overhead electric power and energy transmission and distribution lines suspended from multi-legged structures; provided, that the following findings are made:

(1) That the proposed use does not adversely affect the general plan for the physical development of the district as embodied in this ordinance and in any master plan or portion thereof adopted by the city council.

(2) That the proposed use will not adversely affect the health and safety of residents or workers in the area.

(3) That the proposed use at the location selected is necessary for the public convenience and service.

(4) That structures will be so located on the zoning lot that their minimum distance from any lot line will equal the maximum height of the structure above ground level.

(5) That in the balancing of the equities between such convenience and service and any detriment to adjacent properties or the general neighborhood, such overhead line should be permitted at the location selected.

In making such findings, the fact that heavy storms occasionally cause overhead power lines to break and fall to the ground, causing vulnerability to electrocution and interference with circulation shall be considered. Location of overhead power lines should therefor be evaluated in terms of avoiding proximity of the line to schools, hospitals, fire fighting equipment, police stations, employment centers, airports, pedestrian ways, major highways or streets, and other land uses to which a fallen power line would cause a special hazard or interference with an essential service.

Interference of power line structures with existing or potential air traffic shall also be considered.

## **ARTICLE XI. TELECOMMUNICATIONS TOWERS AND FACILITIES**

### **Sec. 35.1-80. Find ings.**

(a) The city has the authority to regulate the placement, construction, and modification of towers, antennas support structures, and telecommunications facilities.

(b) The federal communications act of 1934 as amended by the telecommunications act of 1996 ("the act") grants the federal communications commission ("FCC") exclusive jurisdiction over:

(1) The regulation of the environmental effects of radio frequency emissions from telecommunications facilities.

(2) The regulation of radio signal interference among users of the radio frequency spectrum.

(c) The city's regulation of towers and telecommunications facilities cannot have the effect of prohibiting any person from providing wireless telecommunications services in violation of the act. (Ord. No. O-97-246, 12-9-97)

### **Sec. 35.1-81. Pur poses.**

The general purpose of this article is to regulate the placement, construction, and modification of towers and telecommunications facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in Lynchburg.

Specifically, the purposes of this article are:

(a) To facilitate the provision of wireless telecommunications services to the residents and businesses of the city in an orderly fashion;

(b) To regulate the location of towers and telecommunications facilities in the city;

(c) To protect residential areas and land uses from potential adverse impact of towers and telecommunications facilities;

(d) To minimize adverse visual impact of towers and telecommunications facilities through careful design, siting, landscaping, and innovative camouflaging techniques;

(e) To promote and encourage shared use/collocation of towers and antenna support structures as a primary option rather than construction of additional single-use towers;

(f) To avoid potential damage to property caused by towers and telecommunications facilities by ensuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or determined to be structurally unsound;

(g) To ensure that towers and telecommunications facilities are compatible with surrounding land uses;

(h) To promote the location of towers in industrial and business, rather than residential areas. (Ord. No. O-97-246, 12-9-97)

**Sec. 35.1-82. Definitions.**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) "Antenna support structure" means any building or other structure thirty (30) feet in height or taller other than a tower which can be used for location of telecommunications facilities.

(b) "Applicant" means any person that applies for a tower development permit.

(c) "Application" means the process by which the owner, or the owner's legal representative, of a plot of land within the city submits a request to develop, construct, build, modify, or erect a tower upon such land. Application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an applicant to the city concerning such a request.

(d) "City" means the City of Lynchburg, Virginia.

(e) "Electrical engineer" means an electrical engineer licensed by the Commonwealth of Virginia.

(f) "Existing tower" means a tower that is in existence/is being constructed on the effective date of this article.

(g) "Fall zone" is considered to be that area within a prescribed radius (equal to the height of the tower) as measured from the base of a tower. A fall zone is based on physical phenomena that can result in a hazard beneath a tall structure and is the area within which there is a potential hazard from falling debris or collapsing material. A fall zone is distinct from a setback.

(h) "Normal business hours" means those hours during which most businesses in the community are open to serve customers.

(i) "Owner" means any person with fee simple title to any plot of land within the city who desires to develop, construct, build, modify, or erect a tower upon such land.

(j) "Parcel" is considered to be that plot of land described by property lines. When multiple parcels are owned and used by the same party, the grouping may be considered to constitute the parcel.

(k) "Person" is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

(l) "Radio frequency engineer" means a professional engineer licensed by the Commonwealth of Virginia with appropriate documented expertise in radio frequency engineering.

(m) "State" means the Commonwealth of Virginia.

(n) "Stealth" means any tower or telecommunications facility that is designed to blend into the surrounding environment through the use of camouflage or other appropriate landscaping or construction techniques.

(o) "Structural engineer" means a professional engineer licensed by the Commonwealth of Virginia with appropriate documented expertise in structural engineering.

(p) "Telecommunications facilities" means any cables, wires, lines, wave guides, antennas, and any other equipment associated with the transmission or reception of communications (other than radio or television broadcast communications) which a person seeks to locate or has installed upon or near a tower or antenna support structure. The term telecommunications facilities shall not include:

(1) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial; or

(2) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category; or

(3) Any federally-licensed amateur radio station operators.

(n) "Tower" means a self-supporting lattice, guyed, or monopole structure constructed from grade which supports telecommunications facilities. The term tower shall not include amateur radio operators' equipment, as licensed by the FCC.

(o) "Tower owner" means the person that owns or controls a tower. (Ord. No. O-97-246, 12-9-97; Ord. No. O-00-007, 1/11/00)

### **Sec. 35.1-83. Development and approval of towers.**

(a) A tower and associated telecommunications facilities shall be a permitted use of land in business and industrial districts (B-1 through B3, B-5, and I-1 through I-3). A conditional use permit from the city council shall be required for applicants seeking to locate towers, regardless of height, and related telecommunications facilities, in business districts zoned as B-4 and B-6 and in conservation and residential districts designated R-C through R-5. No structure, regardless of design or material, shall be permitted in any residential district as a telecommunications facility, except small equipment cabinets located on the tower or on the ground immediately adjacent to a telecommunications facility, provided they do not exceed seventy-two cubic feet above ground, and six feet in height. If another company collocates its antenna on the same tower, each company is permitted to have a small equipment cabinet of this size. Any proposal exceeding these parameters shall be subject to review by the city council as part of a conditional use permit application. Application shall be made to the division of planning in the manner provided in Section 35.1-15 of the city code. In districts for which a conditional use permit is required, the city council shall make its decision to grant or deny such permit in writing and in a manner consistent with applicable state and federal law.

(b) Existing towers are exempt from the maximum height restrictions of the districts where located. New towers shall not exceed a maximum height of fifty (50) feet in any residential district, one hundred (100) feet in a B-1 district, or one hundred fifty (150) feet in any other commercial or industrial district, unless the city council approves a conditional use permit authorizing a maximum height in excess of these limits.

(c) The city may authorize the use of city property in appropriately zoned districts in accordance with the procedures of the city charter and code. The city shall have no obligation whatsoever to use city property for such purposes.

(d) No new tower shall be built, constructed, or erected in the city unless such tower, including the ground area for associated telecommunications facilities, is capable of supporting another person's operating telecommunications facilities comparable in weight, size, and surface area to the applicant's telecommunications facilities. For purposes of this section, the "applicant's facilities" shall mean those installed within six months of completion of tower construction. These provisions are encouraged for, but need not apply to, towers no greater than 50 feet in height.

(e) An application to develop a tower shall include:

(1) The name, address, and telephone number of the applicant. If the applicant is not the owner of the parcel of land upon which the tower is situated, the written consent of the owner, and the name, address, telephone number of the owner, shall be evidenced in the application. The application shall also contain an



affirmative statement indicating that both the owner and applicant are aware of and agree to comply with the provisions in Sec. 35.1-100 regarding abandonment.

(2) The legal description, valuation map number, and address of the parcel of land upon which the tower is situated.

(3) The names, addresses, and telephone numbers of all tower owners with towers or usable antenna support structures within a one (1) mile radius of the proposed new tower site, including city-owned property.

(4) Written documentation that the applicant made diligent, but unsuccessful, efforts for permission to install or collocate the applicant's telecommunications facilities on city-owned towers or usable antenna support structures located within a one (1) mile radius of the proposed tower site.

(5) Written documentation that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on existing or proposed towers, and their ground area, or usable support structures owned by other persons located within a one (1) mile radius of the proposed tower site.

(6) Written, technical evidence from a radio frequency engineer that the proposed tower or telecommunications facilities cannot be installed or collocated on another person's tower or usable antenna support structure located within a one (1) mile radius of the proposed tower site and must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system.

(7) Written, technical evidence from a structural engineer that the proposed structure meets the standards set forth in this code, including but not limited to the requirements set forth in Secs. 35.1-83(d) and 35.1-86.

(8) Written, technical evidence from a radio frequency engineer that the proposed facilities meet the standards set forth in this code, including, but not limited to, the requirement set forth in Sec. 35.1-84.

(9) Written, technical evidence from an electrical engineer that the proposed site of the tower or telecommunications facilities does not pose a risk of explosion, fire, or other danger due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.

(10) A map of the city and the first half-mile of all bordering communities showing the design of the applicant's entire existing or proposed wireless telecommunications network. Such map shall, at minimum, indicate the general location of all proposed or existing tower and antenna sites, their dimensions, specifications, and signal area coverage.

(11) Color photo simulations showing the proposed site of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the closest residential property or properties and from adjacent roadways.

(12) An application fee that represents the site development plan fee and conditional use fee otherwise required. The city reserves the right to employ an outside consultant to review any application. The applicant shall reimburse the city for the reasonable expenses related to such review as an additional application fee.

(13) A site plan, including a description of the lot lines, set backs, location of adjacent structures, proposed location of the tower, separation distances, proposed tower height, landscaping, screening, access, parking, and security.

(14) An acknowledgment that the applicant currently complies and will continue to comply with all FCC standards, including reporting requirements regarding radio frequency emissions.

(14) An acknowledgment that the applicant currently complies and will continue to comply with all FCC standards, including reporting requirements regarding radio frequency emissions.

(15) When seeking approval of a telecommunication tower or facility, the applicant shall furnish written documentation that:

- a. The proposed communication tower is reasonably necessary to serve an adjacent residential area or areas;
  - b. Any variance (or conditional use permit) sought is the minimum necessary to address the need for the variance (or conditional use permit), subsequent to exploring all reasonable siting alternatives;
  - c. The location of the communication tower in relation to the existing structures, trees and other visual buffers shall minimize, to the greatest extent reasonably practicable under the circumstances, any impact on affected residentially zoned property;
  - d. The location of the communication tower will not have a significant detrimental impact on adjacent property values; and
  - e. Any other factors that the applicant deems to be relevant to the City's consideration of a tower or facility siting.
- (f) All information submitted with an application that is trade secret information or is for other reasons proprietary shall be clearly marked as such when submitted with an application. The city shall not disclose publicly, or to any third party, proprietary information unless compelled to do so by federal, state, or local law. (Ord. No. O-97-246, 12-9-97; Ord. No. O-00-007, 1/11/00)

**Sec. 35.1-84. Interference with public safety radio services.**

In order to ensure that the city's public safety radio services will be free from harmful or destructive interference, all applicants requesting a permit to site a tower or telecommunications facilities must:

- (a) Demonstrate compliance with good engineering practices;
- (b) Provide the city a copy of all intermodulation studies submitted to the FCC;
- (c) Not induce harmful or destructive interference to the city's public safety radio services;
- (d) Comply with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI); and
- (e) In the case of co-location of telecommunications facilities either in the same location or on the same tower as the city's, comply with FCC emissions requirements and not radiate any RFI or any electromagnetic interference (EMI) that may interfere with the city's public safety radio services. (Ord. No. O-97-246, 12-9-97)

**Sec. 35.1-85. Set backs and fall zones.**

(a) All towers and any telecommunications facilities in any business and industrial zoning districts shall be set back on all sides a distance equal to the underlying building setback requirement in the applicable zoning district. All towers in residential zoning districts shall be set back on all sides a distance equal to the tower height. In addition, in order to preserve the aesthetics of residential areas and to maintain property values, whenever a tower is located in a residential district, the tower shall be located a distance at least equal to twice the height of the tower from any adjacent property lines. When a tower is located in a commercial district or industrial district, the tower shall be located a distance at least equal to twice the height of the tower from any residential district.

(b) Setback requirements for towers shall be measured from the base of the tower to the property line of the parcel on which it is located.

Fall zones:

(c) Every tower shall be designed to fall within the boundaries of the parcel on which the tower is located. The applicant shall submit written certification and supporting documentation from a structural engineer that a tower proposed for a residential area will fall within the specified fall zone. In the case of towers located in commercial or industrial areas that are specified and certified by a structural engineer to be collapsible or incapable of failure, the building commissioner may reduce the fall zone accordingly.

(d) In those instances in which there is a conflict between the required setback and the required fall zone, the greater distance shall apply. (Ord. No. O-97-246, 12-9-97; Ord. No. O-00-007, 01-11-00)

**Sec. 35.1-86. Structural requirements.**

All towers must be designed and certified by an structural engineer to be structurally sound and, at minimum, in conformance with the statewide uniform building code, and any other standards outlined in this article. (Ord. No. O-97-246, 12-9-97)

**Sec. 35.1-87. Separation or buffer requirements.**

(a) Towers shall be separated from all residentially zoned lands and all residences (irrespective of zoning classification) by a minimum distance equal to one hundred percent (100%) of the height of the proposed tower.

(b) Tower separation distances for the purpose of compliance with this article shall be measured from the base of a tower to the closest point of a designated area. The minimum tower separation distance shall be calculated and applied irrespective of city and county jurisdictional boundaries. (Ord. No. O-97-246, 12-9-97)

**Sec. 35.1-88. Method of determining tower height.**

Measurement of tower height for the purpose of determining compliance with all requirements of this article shall include the tower structure itself, the base pad, and any other telecommunications facilities attached thereto which extend over the top of the tower structure itself. Tower height shall be measured from grade. (Ord. No. O-97-246, 12-9-97)

**Sec. 35.1-89. Illumination.**

Towers shall not be artificially lighted except as required by the federal aviation administration ("FAA"). Upon commencement of construction of a tower, in cases where there are residential uses located within a distance equal to the height of the tower from the tower, and when required by federal law, dual mode lighting shall be requested from the FAA. (Ord. No. O-97-246, 12-9-97)

**Sec. 35.1-90. Exterior finish.**

Towers not requiring FAA painting or marking shall be painted a neutral color (galvanized finish is considered a neutral color). (Ord. No. O-97-246, 12-9-97)

**Sec. 35.1-91. Landscaping.**

All landscaping on parcels containing towers, antenna support structures, or telecommunications facilities shall be designed to screen the tower, antenna support structure, and telecommunications facilities to a height of at least six (6) feet from grade. This requirement may be waived at the discretion of the inspections division if the base of the tower and facilities to be screened are not located in and not visible

from any business or residential districts or visible from public streets. All landscaping must be continually maintained in a healthy and attractive manner. (Ord. No. O-97-246, 12-9-97)

**Sec. 35.1-92. Security.**

All towers must be reasonably posted and secured to protect against trespass. (Ord. No. O-97-246, 12-9-97)

**Sec. 35.1-93. Access.**

All parcels upon which towers are located must provide access during normal business hours to at least one (1) paved vehicular parking space(s) on site. (Ord. No. O-97-246, 12-9-97)

**Sec. 35.1-94. Certifications and inspections.**

(a) All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the city building code and all other construction standards set forth by the city code and federal and state law. For new monopole towers, such certification shall be submitted with an application pursuant to Sec. 35.1-83.(e) and every five (5) years thereafter; for existing monopole towers, such certification shall be submitted within sixty (60) days of the effective date of this article and then every five (5) years thereafter; for new lattice or guyed towers, such certification shall be submitted with an application pursuant to Sec. 35.1-83.(e) and every two (2) years thereafter; and for existing lattice or guyed towers, such certification shall be submitted within sixty (60) days of the effective date of this article and then every two (2) years thereafter. The tower owner may be required by the city to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the tower is jeopardized.

(b) The city and its agents shall have authority to enter onto the property upon which a tower is located, between the inspections and certifications required above, to inspect the tower for the purpose of determining whether it complies with the statewide building code and all other construction standards provided by the city code and federal and state law.

(c) The city reserves the right to conduct such reasonable and necessary inspections, upon reasonable notice to the tower owner. All expenses by the city related to such inspections shall be borne by the tower owner if any unresolved defects exists.

(d) The tower or telecommunication facilities owner shall certify to the city on an annual basis that it is in compliance with all of the requirements of this article, including the requirements set forth in Sec. 35.1-95. (Ord. No. O-97-246, 12-9-97)

**Sec. 35.1-95. Maintenance.**

(a) Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

(b) Tower owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the national electric safety code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.

(c) All towers, telecommunications facilities, and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.

(d) All telecommunication facilities shall maintain compliance with current radio frequency emission standards of the FCC.

(e) In the event the use of a tower is discontinued by the tower owner, or in the event a tower owner files notice to the FCC of its interest to cease operating the tower owner shall provide written notice to the city of its intent to discontinue use and the date when the use shall be discontinued. (Ord. No. O-97-246, 12-9-97)

**Sec. 35.1-96. Stealth.**

All towers and telecommunications facilities in business and residential districts shall be of stealth design. (Ord. No. O-97-246, 12-9-97)

**Sec. 35.1-97. Telecommunications facilities on antenna support structures.**

(a) Any telecommunications facilities which are not attached to a tower may be permitted as an accessory use to any antenna support structure at least thirty (30) feet tall, regardless of the zoning restrictions applicable to the zoning district where the structure is located. Telecommunications facilities are prohibited on all other structures.

(b) The owner of such structure or telecommunication facilities shall, by written certification, graphic representation, and detailed plans to the technical review committee verify that:

(1) The antenna support structure and telecommunications facilities comply with the statewide building code;

(2) Any telecommunications facilities and their appurtenances, located upon the roof of an antenna support structure, are set back a distance at least equal to the height of the telecommunications facilities. However, this setback requirement shall not apply to telecommunications facilities and their appurtenances, located above the roof of an antenna support structure, if such facilities are appropriately screened from view through the use of screening techniques that are compatible with the surrounding built environment and approved by the city. Setback requirements shall not apply to stealth antennas which are mounted to the exterior of antenna support structures below the roof, but which do not protrude more than twenty-four (24) inches from the side of such an antenna support structure; and

(3) All applicable standards of this article are being met. (Ord. No. O-97-246, 12-9-97)

**Sec. 35.1-98. Existing towers.**

(a) An existing tower may be modified or demolished and rebuilt to accommodate collocation of additional telecommunications facilities as follows:

(1) Application for a permit shall be made to the division of inspections which shall have the authority to issue a permit without further approval by the city council.

(2) The total height of the modified tower and telecommunications facilities attached thereto shall not exceed the lesser of the height of the existing tower or the maximum height for towers allowed under this article.

(3) A tower which is being rebuilt to accommodate the collocation of additional telecommunications facilities may be relocated on the same parcel subject to the set back requirements of this article. However, if it is impossible for the tower to be rebuilt in compliance with the set back requirements of this article, such set back requirements shall require approval of a variance from the board of zoning appeals to allow the tower to be rebuilt in its exact previous location. (Ord. No. O-97-246, 12-9-97; Ord. No. O-00-007, 1/11/00)

**Sec. 35.1-99. (Repealed by Ord. No. O-00-007, 1/11/00)**

**Sec. 35.1-100. Abandonment.**

(a) If the city receives notice pursuant to Sec. 35.1-95, or if any tower shall cease to be used for a period of three hundred sixty-five (365) consecutive days, the division of inspection shall notify the owner, with a

copy to the applicant, that the site will be subject to a determination by the division of inspection that such site has been abandoned. The owner shall have thirty (30) days from receipt of said notice to show, by a preponderance of the evidence, that the tower has been in use or under repair during the period. If the owner fails to show that the tower has been in use or under repair during the period, the division of inspection shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the owner shall, within seventy-five (75) days, dismantle and remove the tower. If an owner fails to remove an abandoned tower within seventy-five (75) days of the final determination of abandonment, the city may dismantle and remove the tower and recover the costs of the same from the owner or by accessing the bond set forth below. For the purposes of this section, removal includes all physical improvements associated with towers, including foundation and tower grounding.

(b) To secure the obligation set forth above, the owner shall post a bond or provide a letter of credit in an amount to be determined by the city's risk manager based on the anticipated cost of removal of the tower. (Ord. No. O-97-246, 12-9-97)

**Sec. 35.1- 101. Res er va tion of rights.**

The city reserves the right to impose any other reasonable conditions it determines are necessary for the proper placement, construction, or modification of towers or facilities, and/or to impose any other reasonable conditions on the issuance of a conditional use permit for placement, construction, or modification of a tower or facilities. (Ord. No. O-97-246, 12-9-97)

